

MEETING
STATE OF CALIFORNIA
THE RECLAMATION BOARD
OPEN SESSION

RESOURCES BUILDING
1416 NINTH STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

FRIDAY, JUNE 15, 2007
8:30 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. Benjamin Carter, President
Mr. Butch Hodgkins, Vice President
Ms. Lady Bug Doherty, Secretary
Ms. Teri Rie, Member

STAFF

Mr. Jay Punia, General Manager
Mr. Stephen Bradley, Chief Engineer
Ms. Nancy Finch, Legal Counsel
Mr. Dan Fua, Supervising Engineer
Ms. Lorraine Pendlebury, Staff Assistant

DEPARTMENT OF WATER RESOURCES

Ms. Annalena Bronson
Mr. Robert Charney
Mr. Jeff Fong
Mr. Rod Mayer, Chief, Division of Flood Management
Ms. Erin Mullin
Mr. Ricardo Pineda
Mr. Ward Tabor

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Curt Aikens, Yuba County Water Agency

Mr. Paul Brunner, Three Rivers Levee Improvement Authority

Mr. Stein Buer, Sacramento Area Flood Control Agency

Mr. Joseph Countryman, MBK Engineers

Mr. Tom Eres, Hofman Ranch

Mr. Thomas Foley, Concerned Citizens for Responsible Growth

Mr. Jon Giottonini, Village Builders

Mr. Rick Johnson, United States Bureau of Reclamation

Mr. Grant Kreinberg, Sacramento Area Flood Control Agency

Mr. Robert Naylor, Rice River Ranch

Mr. Dave Peterson, Peterson, Brustad & Pivetti, Inc.

Mr. Frank Piccola, United States Army Corps of Engineers

Ms. Jeanette Rice, Rice River Ranch

Mr. Thomas Rice, Rice River Ranch

Mr. Eric Simmons, Federal Emergency Management Agency,
Region 9

Ms. Judy Soutiere, United States Army Corps of Engineers

Dr. Steve West

Mr. Steven Winkler, San Joaquin County Flood Control and
Water Conservation District

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Acceptance of a 2.93 acre parcel of land in the City of Stockton, Charlottes Oaks Investors

Consider acceptance of a 2.93 acre of land located along the north bank of the Calaveras River in the City of Stockton, San Joaquin County from Charlottes Oaks Investors, LLC.

REQUESTED ACTIONS

9. PROJECT OR STUDY AGREEMENTS	
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A. Yuba River Basin Project

Consider approval of a letter to the U.S. Army Corps of Engineers requesting credit under Section 104 of Public Law 99-662 for flood control improvements within Segment 2 (setback levee) of the Project area, along the east levee of the Feather River. 35

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Project - Mayhew Levee Raise 84
- Approve Resolution 07-04 to adopt an Addendum
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Mayhew Levee, Sacramento County, California
Final Environmental Impact Report. The
Addendum is to add the following:
1. an approximately 150-foot extension of
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the levee
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1 PROCEEDINGS

2 PRESIDENT CARTER: Good morning, ladies and
3 gentlemen. Welcome to the State Reclamation Board
4 meeting.

5 Mr. Punia, would you call the roll.

6 GENERAL MANAGER PUNIA: Jay Punia, General
7 Manager.

8 Board Member Teri Rie is not here and Board
9 Member Rose Marie Burroughs is not here. The rest of the
10 members are here.

11 PRESIDENT CARTER: Okay. Just for everyone's
12 information, Teri Rie called and said that she will not be
13 able to arrive until 9:30 approximately. And Rose Marie
14 Burroughs will not be able to attend today at all.

15 At this time the Board will enter into closed
16 session to discuss litigation, Natural Resources Defense
17 Council versus Reclamation Board, case No. 06CS01228,
18 pursuant to Government Code Section 11126(e)(2)(A).

19 (Thereupon the Reclamation Board recessed
20 into closed session at 8:31 a.m.)

21 (Thereupon a recess was taken.)

22 (Thereupon the Reclamation Board reconvened
23 into open session at 9:48 a.m.)

24 PRESIDENT CARTER: Good morning, ladies and
25 gentlemen, and welcome to the State Reclamation Board

1 meeting.

2 Let the record reflect that the Board met in
3 closed session this morning to discuss litigation as
4 agendized on today's agenda. No decisions were made.

5 Also please note that we currently do not have a
6 quorum. One Board member, Teri Rie, will be arriving
7 shortly. And so we will be delaying Items 3 and 4 until
8 we have four members of the Board to form our quorum.

9 So at this point we will move on to Item 5, which
10 is public comments. And this is the time when we invite
11 all members of the public -- any members of the public to
12 address the Board on items that are not agendized for
13 today. We ask that people limit their comments to five
14 minutes.

15 And we also ask that they please fill out these
16 little 3-by-5 cards so that we know that you -- to
17 recognize you. These are available through Lorraine here
18 at the front or also on the table at the back at the
19 entrance to the auditorium.

20 So, please, we welcome comments.

21 The public is free to comment on items that are
22 agendized today. And we will take those comments as we
23 address those items during the course of the day.

24 So with that, do we have -- all the cards I've
25 got here are on agendized items.

1 Is there any member of the public out there that
2 would like to address the Board on unagendized items?

3 Seeing none.

4 Then we will proceed.

5 We'll proceed with Item 6, Report of the
6 Activities of the Department of Water Resources.

7 Mr. Mayer. Good morning, welcome.

8 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Good
9 morning, President Carter, members of the Board, general
10 Manager Punia. I'm Rod Mayer, Chief of Division of Flood
11 Management.

12 I trust that you have a written copy of the
13 report of activities.

14 I will skip over the water conditions. Nothing
15 has change with respect to water conditions.

16 With respect to the Tisdale Bypass Sediment
17 Removal Project, the team that's been working on this
18 project has succeeded in securing all the permits
19 necessary for the work to proceed this summer. And I
20 think a special thanks goes to members of the team,
21 especially in Flood Management and the Division of
22 Environmental Services staff, who have been negotiating
23 those permit conditions with the resource agencies as well
24 as the Resources Agency's staff. Quite a few permits were
25 secured. It was difficult to secure them all in the time

1 that was available, but it happened. And it was through a
2 lot of cooperation.

3 SECRETARY DOHERTY: Would you extend our special
4 thanks to them for facilitating this process?

5 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: I
6 would be glad to.

7 PRESIDENT CARTER: Yes, please. Thank you very
8 much and congratulations.

9 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Thank
10 you.

11 So on June 1st, Division of Engineering, who's
12 also been working very hard on this project, put out a
13 package for bids for solicitation. And bids are to be
14 received and opened on June 27th. We expect there will be
15 several weeks of reviewing the bid packages and making the
16 selection and then issuing of notice to proceed. So that
17 notice to proceed is likely to occur in late July.

18 I'd also like to note that the Division of Flood
19 Management's reorganization that will become effective
20 next month has been approved. This was a substantial
21 reorganization that's created new offices. So under this
22 reorganization, we will have the Continuing Flood Projects
23 Office, the Hydrology Flood Operations Office, the
24 Delta-Suisun Marsh Office. And then we are establishing
25 newly a Flood Maintenance Office, a Levee Repairs and

1 Floodplain Management Office. And we've been operating
2 with those two offices during the interim period here now
3 for nearly a year. And we will also be creating a new
4 statewide Flood Planning Office.

5 All told, these new offices, six of them in the
6 Division, will accommodate 350 positions.

7 I have a summary for you of the budget
8 highlights.

9 PRESIDENT CARTER: Mr. Mayer?

10 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Yes.

11 PRESIDENT CARTER: Is there a picture of the new
12 organization that's out yet?

13 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Yes, I
14 would be glad to provide that to you.

15 PRESIDENT CARTER: Okay. That would be helpful.

16 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: With
17 respect to the budget, the Department of Water Resources
18 flood management budget, at this point in the Legislature,
19 is requesting \$876 million for fiscal year '07-'08;
20 essentially about ten times what our normal budget is.
21 And it would also request 110 positions. That would get
22 us to the 350 positions that are in the approved
23 reorganization.

24 Most of the budget is in Conference Committee at
25 this point. Several of the capital outlay items for

1 specific capital outlay projects under the Board's
2 authority have been approved and are not in conference.
3 But other than that, most of the budget is in conference
4 while various policy issues are being debated between the
5 Senate and the Assembly. And I don't think there's much
6 debate over the amounts of funding. There's some minor
7 things with respect to funding, but very minor. Most of
8 it has to do with policy and what's the direction the
9 Department wants to go with respect to what the Senate and
10 the Assembly want to see. We think we can work through
11 those issues. There are working groups that have been set
12 up to help the Conference Committee. And the Department
13 of Finance and Department of Water Resources have been
14 helping in the work groups.

15 I also want to touch upon the Lower Feather
16 Floodplain Mapping Study. And just note that for the Yuba
17 County portion of the study, the DWR had floodplains that
18 were developed that considered breaks on a number of
19 levees protecting the area. But as you well know, there
20 have been many improvements since those floodplain maps
21 were submitted to FEMA in 2005. And Three Rivers is to be
22 commended for the work they've been doing. Consequently,
23 the Corps has certified many of the levees that otherwise
24 would be contributing to the flooding in floodplain
25 mapping study.

1 The only levee really that remains that's
2 significant that would contribute would be the Feather
3 River levee. And as a result, it is still justified that
4 there would be a significant floodplains in the area in
5 Yuba County in the Plumas Lakes RD 784 area. It's not
6 clear exactly though how FEMA is going to incorporate that
7 information and make the adjustments and show the
8 floodplains. We do suspect to the extent they do put out
9 a map, it would be an approximate map, not a detailed,
10 because I don't think they're comfortable with the detail
11 study that's been done by DWR.

12 FEMA works on a county-wide basis. And their
13 intention is to incorporate whatever map that they'd have
14 for the area into a county-wide map. We don't have a
15 schedule other than federal fiscal year 2008 for that map
16 issue. And that would be a preliminary map for the
17 county.

18 With respect to the Sutter County map, which
19 shows the area south of Yuba City flooding, FEMA will be
20 issuing an approximate preliminary map. There haven't
21 been any significant levee improvements in the area, so
22 it's quite a different context than on the other side of
23 the river.

24 There has been no date set by FEMA yet though as
25 to when they will put out a preliminary approximate map

1 for that area.

2 I'd like to talk a little bit about the erosion
3 site repairs. Most of this summer's work will be focused
4 on placement of soil and plants for on-site completion of
5 structural repairs and mitigation activities. And 99
6 sites have their initial structural repairs completed at
7 this point. There are 5 of the 104 sites that do not have
8 their initial structural repairs done:

9 Two of those are on Cache Creek where we're in
10 design for setback levees.

11 One of them's on Butte Creek where our Sutter
12 Maintenance Yard originally was going to do the job. And
13 after getting into it, they realized it was a little bit
14 bigger than they could handle. And so we've had to
15 backtrack and take it over and do it through contract
16 rather than through yard forces.

17 RD 1602 down near Patterson where the Corps of
18 Engineers has expanded the site to incorporate more
19 seepage and boil problems than originally envisioned. And
20 so that's delayed that work.

21 And, finally, RD 1500 where to connect an
22 irrigation canal and drainage canal, it needs to be
23 dewatered late in the summer or early fall for a couple of
24 weeks for the construction to occur.

25 Another important development is that recently

1 the Corps has received approval to repair 161 what are
2 called Order 3, 4, 5 sites under Public Law 84-99. You
3 may recall that DWR and the Corps have cooperated on the
4 Order 1 and Order 2 sites. These were the most critically
5 damaged sites, and we believe they met the requirements of
6 critical damage and were similar to air sites and
7 qualified for emergency repair under the executive orders
8 from the Governor.

9 Orders 3, 4, and 5 are less damaged. Order 5,
10 very minor damage, for instance. So none of these are
11 critical. However, they are qualified for repair under
12 the Public Law 84-99 program. And the Corps lacked
13 funding. DWR chose to defer any work on those, waiting
14 for federal funding, because they're weren't critical.
15 And it appears that the Corps may in the next few weeks
16 receive about \$40 million to begin work on these 161
17 sites. Their original cost estimate for repairing those
18 sites was a little over 90 million. But they're now
19 thinking that they could get a lot of the sites, maybe all
20 of them, done for 40 million. That remains to be seen.

21 So we're now beginning a new push on all these
22 new sites, cooperating with the Corps of Engineers to
23 provide the borrow sites, which is a state responsibility.
24 Coordinate with the local agencies, review designs, and
25 secure all the lands that the Corps identified that they

1 needed to perform the repairs.

2 The next topic I want to cover is the urban levee
3 evaluations program. We recently had the fifth meeting of
4 the independent consulting board. That meeting ended
5 yesterday.

6 A key result of that meeting has been some
7 rethinking of that 0.4 exit gradient that I spoke to you
8 about last month as being a fundamental design parameter
9 for underseepage that may control a lot of the designs and
10 cost of work for improving the system.

11 The rethinking is now that the Board thinks it's
12 appropriate to use that 0.4 exit gradient only for looking
13 at the 100-year event, not for any larger events, and that
14 it's not a requirement but rather something that should
15 just be evaluated.

16 What they're thinking now is .05 is the
17 appropriate gradient to use. And we also believe that's
18 consistent with where the Corps has been and where the
19 Corps is going. There's been a lot of uncertainty in what
20 the Corps is thinking on exit gradients. But the latest
21 thinking is that 0.5 is where they're at and where they're
22 likely to stay.

23 So the Board recommended using 0.5 to be
24 consistent with the Corps and to put the water at the top
25 of the levee and evaluate the seepage. And for that

1 situation, if it's -- if the exit gradient is less than .5
2 you're okay. If it's not, then you need to do some
3 underseepage remediation. They would do that for every
4 event up to the 500-year event.

5 For any event -- if the top of the levee can hold
6 greater than a 500-year water surface, then they would
7 relax the seepage exit gradient to .6.

8 I think there's more work to do on this with the
9 Board. And I think we need to have further discussion at
10 the next meeting of the Board to refine exactly what
11 they're talking about, how they would recommend deriving
12 these various frequency water surfaces, and how risk and
13 uncertainty will relate to those calculations.

14 But I think we're making progress. And there's
15 been a lot of rethinking on this one.

16 PRESIDENT CARTER: Mr. Mayer, so that the
17 existing standard is the 0.5 gradient?

18 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: That's
19 correct.

20 PRESIDENT CARTER: So we're not changing the past
21 policy, past practice of the state or the Corps?

22 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: I
23 think that's true with respect to the exit gradient
24 number. With respect to what water surface one uses to
25 calculate it, I'm not so certain we can say that isn't

1 changing. I think that is an area that is evolving, and
2 it's important. That water surface, as you change it, has
3 a very large impact on the calculations and what exit
4 gradients you get.

5 So I think there is one conservatism in the
6 analysis now than what may have been several years ago, as
7 a result of the water surface, not the exit gradient.

8 PRESIDENT CARTER: So what -- and you said that
9 they would be using the 0.4 only for 100 year. For what
10 purpose?

11 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: They
12 thought that one should do a check and just make sure that
13 you don't have, say, a .45 or .48 exit gradient for the
14 100-year water surface. I think what we find is based
15 upon having 200-year designs and probably some
16 conservatism in the water surface that one uses for that
17 200-year event, that that is going to be the controlling
18 factor. And I think the Board raised that as well. And
19 that this independent check on the .4 for the 100-year
20 water surface really isn't going to come into play very
21 often.

22 PRESIDENT CARTER: But the existing standard was
23 0.5 regardless of the flood event; is that correct?

24 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER:
25 Correct.

1 PRESIDENT CARTER: So are we saying that for a
2 100-year the standard is going to be 0.4?

3 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: No --

4 PRESIDENT CARTER: Are we putting another layer
5 of policy in here or what --

6 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: I
7 think there is another layer. But what they -- they
8 didn't say it's a standard. They said they would like us
9 to do a check. They didn't say exactly what to do if it
10 doesn't check. Although they did mention that one of the
11 options is get more geotechnical information so you have a
12 little bit more confidence about what you're dealing with.

13 PRESIDENT CARTER: Has there been any kind of
14 public vetting of this discussion and are there plans to
15 do that before DWR establishes a standard that they're
16 going to apply for project devaluation?

17 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: I
18 would say the Board meetings themselves are semi-public in
19 that the various --

20 PRESIDENT CARTER: You're talking about the
21 independent consulting board?

22 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER:

23 Correct. The independent consulting board
24 meetings are semi-public in that not only is DWR there and
25 the Corps staff there, but also many of the urban areas,

1 their engineers participate in these meetings as well. So
2 they have an opportunity to hear the discussions and even
3 feed into the dialogue.

4 So there's no secret here. All of these are very
5 open discussions.

6 In terms of having public meetings about it, I
7 don't think we have a plan to do that, other than through
8 the various workshops that we have with the various urban
9 areas, and a little later on it will be the rural areas.

10 In the report that I provided to you there's a
11 discussion of the workshops that occurred in May, for
12 instance. And those workshops are continuing. So we do
13 have lengthy workshops with all these different areas,
14 discussing this issue as well as many others.

15 PRESIDENT CARTER: Okay. I think it's important
16 that the public have the opportunity to participate in the
17 process and express their views.

18 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Sure.
19 Agreed.

20 VICE-PRESIDENT HODGKINS: Rod, correct me if I'm
21 wrong, but it seems to me that the significant change that
22 comes here is we're now designing levees so that at least
23 for underseepage we would say that it's our expectation
24 that the levee would overtop without failing.

25 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: You

1 hit the nail on the head.

2 VICE-PRESIDENT HODGKINS: Okay. And I'm not sure
3 what that means. I'm sitting here trying to think what
4 kind of problems that's going to raise. But it seems to
5 me it's the right direction. Are you going to do the same
6 thing on levee stability?

7 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: I
8 don't think there's been a discussion about levee
9 stability. Although that's normally not been the issue
10 unless you have significant through-seepage problems. And
11 there has been discussion about through-seepage. I can't
12 tell you what the water surface -- the requirement for
13 that, however.

14 VICE-PRESIDENT HODGKINS: And let me go back to
15 the point 5. If the selected fix is a seepage berm, there
16 was a time when the thinking was at 300 feet it didn't
17 make sense to go any further. Do you know if that's
18 changing?

19 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: I
20 don't think that's changing.

21 VICE-PRESIDENT HODGKINS: Okay. That means a lot
22 of 300-foot seepage berms though. That's my reaction.

23 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER:
24 Probably more than we originally thought.

25 VICE-PRESIDENT HODGKINS: Thank you.

1 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: One
2 other topic I wanted to cover on the levee evaluations is
3 that we also had opportunity to use some of the
4 information that we've developed as a result of the
5 drilling program in Reclamation District 17 in the area.

6 Reclamation District 17 and Stockton and the
7 county officials recently asked us if we would -- if DWR
8 would support their application for preliminary accredited
9 levees, the PAL program, which you'll be hearing about
10 later today, so I don't want to get into that too much.

11 And DWR's response was, "We're not comfortable
12 signing such a document unless we've got some geotechnical
13 evidence that supports that it's appropriate. And we've
14 recently acquired a lot of drilling information in the
15 area. So what we'd like to do is look at a couple of the
16 areas that are of most concern to us for underseepage and
17 do some calculations. And when we do those calculations,
18 if they reveal that underseepage doesn't appear to be a
19 problem, then we have a basis to move forward and perhaps
20 support the application."

21 So, we had our consultant, URS, and they actually
22 asked a subconsultant, Fugro & McClellan, to do the
23 underseepage calculations at two of the areas of most
24 concern to us as a result of the drilling. And the
25 underseepage calculations turned out in the range of 0.6

1 to 0.9, the exit gradient. That's of great concern to us.

2 As a result we've informed Reclamation District
3 17 and the area officials recently that DWR could not
4 support that PAL application on the basis of having
5 significant underseepage concerns. And we'll be writing a
6 letter to follow up for this investigation that we did.

7 Finally, I'd like to just mention that in late
8 May, DWR received the Administration's approval to begin
9 discussions with interested legislators on the
10 Administration's flood management legislative proposal
11 concepts. And I don't have copies with me now, but I do
12 have a summary package, it's a few pages long, that I can
13 provide you later today. And I'd be glad to do that.
14 Then you could see what the general topics are in the
15 proposed concepts.

16 They cover -- the concepts or topics are public
17 safety, urban area protection, development in areas with
18 substantial risk of deep flooding, development of a new
19 state plan of flood control, directing DWR to develop cost
20 sharing rules for bond funds for levee and flood control
21 repairs and improvement projects in the Sacramento and San
22 Joaquin valleys, the development of a flood risk
23 notification program, liability, flood insurance, as well
24 as exemptions from Public Works Board review and approval
25 and Administrative Procedures Act for Proposition 180

1 grant programs.

2 So I'd be glad to provide that package to you a
3 little bit later today. I'm having copies made now.

4 Are there any questions of me?

5 PRESIDENT CARTER: This is an updated version of
6 the package that the Sacramento Bee had?

7 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: This
8 would be the same package that the Sacramento Bee had.

9 (Laughter.)

10 PRESIDENT CARTER: That one that was marked
11 "confidential" and "internal" and --

12 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: That's
13 right.

14 PRESIDENT CARTER: -- "top secret"?

15 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: And
16 once we hand it out to the Legislature though, we lose a
17 little control.

18 PRESIDENT CARTER: I understand.

19 Yeah, we'd love to receive copies of that
20 package. That would be of great interest to us.

21 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Okay.

22 PRESIDENT CARTER: Any questions for Mr. Mayer?

23 Very good.

24 Thank you very much.

25 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: You're

1 welcome.

2 PRESIDENT CARTER: Move on to Item 7, Three
3 Rivers Levee Improvement Authority Monthly Report.

4 Good morning, Mr. Brunner. Welcome.

5 MR. BRUNNER: Good morning, President Carter,
6 members of the board. I'm Paul Brunner, the Executive
7 Director of Three Rivers.

8 You all should have the monthly report that we
9 turned in. And for brevity, I wasn't going to go through
10 the report in detail, and, in fact, just really ask for
11 questions.

12 I do want to thank you all for the meeting that
13 we had just a week ago, a special meeting for Three
14 Rivers, and the permit that was issued for segments 1 and
15 3. We do anticipate doing the award for at least through
16 segment 3 in around the mid-July time period. So that
17 will work out really well for us. Thank you.

18 I'd also like to report that we still do not have
19 word from DWR on Prop 180 funds. Hopefully that will be
20 coming very soon, perhaps next week, on that issue. So as
21 soon as that happens we will let you know and -- as we
22 work through that.

23 With that, I'll hope for questions and ask if
24 there are any questions from our monthly report.

25 PRESIDENT CARTER: Any questions for Mr. Brunner

1 from the Board or staff?

2 Lady Bug, Did you have something?

3 SECRETARY DOHERTY: No, I wanted to ask about --
4 you're moving some poles or something somewhere, aren't
5 you?

6 MR. BRUNNER: Yes, we are. There was an
7 encroachment permit that we had for -- on the Yuba River
8 in the seepage berm by the detention basin that we had
9 talked about at great length for. The encroachment permit
10 was issued and it was issued through PG&E. We're working
11 with PG&E to make that relocation happen.

12 SECRETARY DOHERTY: And so then who is going to
13 be checking on the compaction when you're finished?

14 MR. BRUNNER: Three Rivers will.

15 SECRETARY DOHERTY: Three Rivers will check on
16 it. Okay.

17 And on Item 4 -- the Phase 4, how do pronounce
18 that? Piezometer?

19 MR. BRUNNER: Piezometer.

20 SECRETARY DOHERTY: Yeah. How many of those do
21 you have to put in there?

22 MR. BRUNNER: It's dependent on each site, with
23 the effort. I think it ranges in four or five per site.
24 We will build on that and get back to you if you'd like to
25 have us --

1 SECRETARY DOHERTY: Well, I'm just curious. So
2 then is it transmitted -- is it recorded within it? Is it
3 transmitted to you somewhere, this measuring of the
4 pressure?

5 MR. BRUNNER: Well, actually what happens there
6 in the piezometers is that they do measurements in the
7 field, and they're just measuring water elevation for
8 difference. And they get the pressure from that what the
9 head is. And so -- there's not an electronic readout.
10 It's just a measurement.

11 SECRETARY DOHERTY: All right. I was just
12 curious about that. All right.

13 PRESIDENT CARTER: Anything else for Mr. Brunner?

14 VICE-PRESIDENT HODGKINS: On the question of
15 piezometers, you know, they provide data that would let us
16 look at the before and after. If we get them in before
17 and we get a high water event, gradients which could
18 confirm or show design is not as good as we think. So
19 there's a tendency to put them in, but then the data never
20 gets collected and used. And this goes back to the issue
21 I raised about whether or not we've ever evaluated how
22 effective a slurry wall is.

23 So every time we talk about piezometers or slurry
24 walls, I'm going to ask the same question again: Does
25 anybody know, have we ever evaluated one and determined

1 how effective it is? And the answer is no. And Thank
2 you.

3 (Laughter.)

4 MR. BRUNNER: All right. The requirement to put
5 those in was from -- with the Corps through certification
6 that we put those in. So we are putting them in.

7 PRESIDENT CARTER: Okay. Nothing else. Thank
8 you very much.

9 MR. BRUNNER: Thank you.

10 PRESIDENT CARTER: We do have a few members of
11 the public that wanted to comment on this item.

12 Mr. Naylor.

13 MR. NAYLOR: Good morning. Thank you, Mr.
14 President and Vice-President and members, for the
15 opportunity to comment. My name is Robert Naylor. This
16 is just a brief follow-up on last week's very appreciated
17 and very extensive hearing on the alignment issue and an
18 issue of timing.

19 Just to review the bidding on this, to refresh
20 the Board's recollection, when we first communicated with
21 you I think in April we were talking about preferring one
22 of the intermediate setback alternatives. When we met
23 with the Department of Water Resources, it was suggested
24 that we consider merely a movement of a few hundred feet
25 west from the adopted alignment. And that's what we

1 advocated last week. And you saw all kinds of maps. You
2 got hard copies. You saw a very nice presentation.

3 And we've learned a lot from those maps with
4 respect to the issue of soil types and timing. Looking at
5 the maps, kind of reviewing the testimony, it appears that
6 close to half of the proposed setback alignment is along
7 the QA soil. And we're proposing a modest expansion of QA
8 soil. Although we don't really know because we don't know
9 where the boundary is for sure until we do the soils
10 sampling that the Vice-President suggested was necessary
11 to give people a comfort level. And we favor that. And
12 we didn't hear anything about whether TRLIA is actually
13 going to go forward with that or not. And we urge that if
14 you do go forward with that, that TRLIA go forward with
15 testing the soils at 150, 300, and 450 foot intervals west
16 of the proposed alignment only in the vicinity of the
17 small family farms that we kind of outlined in our map
18 last week.

19 The other thing we learned from the maps is that
20 about 1.8 miles of the northern end of the levee would not
21 be affected at all by any change design as a result of
22 moving the alignment west by a few hundred feet -- up to a
23 few hundred feet in the neighborhood of the small family
24 farms. That suggests that design and construction can get
25 started while the soil sampling takes place and while the

1 redesign takes place.

2 There are already going to be delays, as Mr. Rice
3 will point out, as a result of eminent domain delays.
4 There's a 60- to 90-day statutory notification right
5 that's built into the statute. So -- built-in to the
6 eminent domain process. So the actual acquisition of
7 lands in order to enter upon them in order to begin
8 construction is not going to happen until at least 90 days
9 from now. In fact, the update shows that a couple of
10 resolutions of necessity are going to be considered at the
11 June 19th meeting of TRLIA. So now we're talking
12 September, October before the first lands are acquired.
13 And, by the way, that process has not begun in the central
14 part of the levee, the area that we're talking about.

15 So we just don't think that there's an excuse for
16 not at least taking those soil samples and seeing if
17 there's really any additional risk created as a result of
18 moving the boundary west.

19 The other factor I just wanted to underscore
20 that -- it was in my letter -- is that the existing levee
21 is not planned to be removed until 2009. So the
22 construction schedule can continue through the winter of
23 2009. And that would be consistent with the goals set by
24 this Board and by TRLIA.

25 Finally, let me just say on the issue of the

1 value of agriculture -- I mean this is maybe beating a
2 dead horse. But we just don't think that there was an
3 adequate explanation last week of not taking into account
4 what's happening to these small family farms in terms of
5 the drastic impact versus whatever trade-off there is with
6 a minor increase in QA soil.

7 A hundred thousand acres a year of agricultural
8 land is being lost in California now. Twelve million
9 people will be living in the central -- the great Central
10 Valley by 2040. The vast majority of farms in California
11 are family farms. In that context, and given the value of
12 having agriculture next to a levee, both aesthetic and in
13 terms of levee protection, we just do not see why there's
14 such a cavalier effort to put small family farms out of
15 business when it's easily avoidable. And we urge this
16 Board to take that into account.

17 Thank you very much.

18 PRESIDENT CARTER: Thank you.

19 Any questions for Mr. Naylor?

20 Thank you, sir.

21 Mr. Rice.

22 MR. RICE: Mrs. Rice is going to speak.

23 PRESIDENT CARTER: Okay. Mrs. Rice.

24 MRS. RICE: Jeanette Rice, Rice River Ranch.

25 In support of what Mr. Naylor just presented, I

1 have documentation for the Board for the three family
2 farms demonstrating the poor evaluations and behaviors of
3 TRLIA and their agents, BRI, Bender Rosenthal.

4 I'm not going to read through a laundry here.
5 Rather, I'm providing this to the Board to show a
6 consistent pattern in how the valuable farming families
7 are being treated. As you look through this material, you
8 will see for yourselves that a better approach is needed.

9 I urge the Board to direct TRLIA to work with us
10 towards a better decision to preserve more of the
11 community and the family farms and to provide just and
12 full compensation.

13 Thank you.

14 PRESIDENT CARTER: Any questions for Mrs. Rice?

15 Thank you very much.

16 Mr. Rice.

17 MR. RICE: Thomas Rice, Rice River Ranch. Thank
18 you, ladies and gentlemen. I'll try again to keep my
19 comments concise.

20 I think one thing we are all very well agreed on
21 here is we need to fix the levee and we need to do so in a
22 timely manner. And we think the best way to do this is
23 with a cooperative and collaborative manner, that respects
24 the community, its value, and its contributions. Having
25 to work in an adversarial manner is not only distasteful;

1 it's risking both our schedules and costs here.

2 As Mr. Naylor mentioned, as the agenda for the
3 upcoming June 19 TRLIA meeting shows, they are about to
4 begin the eminent domain process for another two parcels
5 starting with resolutions of necessity. By my count
6 through their meeting the minutes, this is at least five
7 of these processes started already. How many more are we
8 going to have, 10, 20, 30? We don't need to be involved
9 in this degree of litigation. We need TRLIA on track
10 building a levee where its designed to serve the
11 community, not having to spend their time in litigation
12 and court with contentious acquisition cases.

13 And the risk to the schedule here is really real,
14 as Mr. Naylor noted. One adds in the timelines as a
15 safeguard of the eminent domain process. You can have up
16 to 128 -- or, excuse me -- 120 days of delay. You've got
17 90 days for an initial requirement minimum for a hearing
18 for farm property; and even if that hearing goes totally
19 in favor of the acquisition, another 30 days before
20 transfer and possession.

21 For things starting today we're talking late
22 October. We're talking four months' delay if we're going
23 to keep doing this in a contentious fashion. That's not
24 the best way for the people who are on farms and not the
25 best way to build the levee. We need to work

1 cooperatively.

2 And claiming there's not time to fix the design,
3 to better serve the community, to do these analyses, to
4 verify that we can do so, and instead potentially adding
5 even longer delays due to not being able to reach
6 agreements, ladies and gentlemen, we're being penny-wise
7 and pound-foolish. We need to work together better. We
8 all want the levees fixed. We want this done properly.
9 We live there. We've been hit by events before. We want
10 it done right.

11 But what I'm asking here is the same thing I've
12 been asking from the start in all my attempts to work with
13 the different individuals and agency here, and as I
14 documented my chronology, I want us to be able to work
15 together to deliver an appropriate balance that respects
16 and meets the values of the community and works to
17 preserve that community. And I would like to ask the
18 Board in how it directs its staff and what it permits or
19 denies to search really -- these unnecessary conflicts, to
20 provide improved designs and more appropriate evaluations.
21 This is not only the right approach. It's most likely
22 going to be the quicker approach as well.

23 Thank you.

24 Any questions for Mr. Rice?

25 Thank you. Appreciate your comments.

1 Mr. Foley.

2 MR. FOLEY: Good morning, Chairman Carter and the
3 Board. I'd just like to raise the issue again that the
4 levees up there are state-owned project levees. The state
5 has been acting as though the Paterno decision didn't
6 happen. The Rec Board, DWR well know that the Feather
7 River left bank has very serious problems. The levee
8 reach in the state project levees that fail to perform to
9 design standards due to foreseeable defects are immediate
10 Paterno.

11 The Rec Board is entrusted to ensure the
12 integrity of the system. DWR should understand better
13 than anyone what the Paterno decision meant. DWR's still
14 running around as though Paterno did not establish state
15 responsibility. That is highly irresponsible on DWR's
16 part.

17 The Rec Board is the state agency in charge of
18 the state system in cooperation with the Army Corps and
19 DWR. It is a -- comes up -- it raises the issue that the
20 state project levees -- what does the local agency have to
21 do with the state project levees? Why are local agencies
22 designing state project levees, and financing for that
23 matter?

24 The Rec Board is allowing local flood control
25 agencies to haphazardly design our state system. That

1 could be a very costly mistake time-wise.

2 The Legislative Analyst's Office, LAO, recommends
3 on the DWR capital outlay projects that there be oversight
4 over the monies -- the 1E monies. And DWR is recommending
5 The Reclamation Board be that agency. Then there's
6 question in the Legislature whether The Rec Board has
7 enough separation from DWR, meaning are they acting as a
8 board.

9 After Paterno, the public has a very reasonable
10 expectation of stronger, much more throughout The Rec
11 Board. The Board has responsibilities. The California
12 Air Resources Board sets world standards. This Rec Board
13 is not setting high standards.

14 California state -- at the state level
15 California's vast resources can be better put to use to
16 prevent catastrophic flooding in Central Valley. And I'd
17 also like to mention, since I heard this morning, that
18 that is a very positive, strong action that DWR took out
19 in Lathrop. There'll be tremendous development through
20 Lathrop and elsewhere to let these things go by. And
21 that's exactly what The Rec Board and DWR need to be
22 doing.

23 The only thing DWR has is resources to get these
24 tests done. And then when they -- I mean that's excellent
25 work. And we said, no, we know now the levee's not good,

1 no dents to repair. But people at the local level do not
2 care to develop interests what shows -- those levees show.
3 They just want to keep on building. And DWR took a strong
4 stand there. And The Rec Board needs to do the same
5 thing.

6 Thank you.

7 PRESIDENT CARTER: Thank you.

8 Any questions for Mr. Foley?

9 Thank you very much.

10 Okay. At this time our next item is the consent
11 calendar, which we cannot take any action on due to a lack
12 of a quorum.

13 What I propose is that we take a ten-minute
14 recess, and hopefully our fourth member will arrive. So
15 we'll reconvene here in ten minutes, 10:40.

16 (Thereupon a recess was taken.)

17 PRESIDENT CARTER: Ladies and gentlemen, if we
18 could go ahead and take our seats please, we'll continue
19 with our meeting.

20 Now that we do have a quorum of the Board, I'd
21 like to return to Item 3 on our agenda, approval of the
22 minutes, March 14th; our workshop, March 16th; and March
23 22nd the Three Rivers Levee Improvement Authority
24 Subcommittee meeting.

25 So are there any changes to any one of those

1 minutes? I notice there was a date on The Reclamation
2 Board workshop. The date shows March 14th, 2006. That
3 should be 2007.

4 Were there any other changes to any of those
5 minutes?

6 GENERAL MANAGER PUNIA: Just a comment. The
7 subcommittee minutes should be approved by the members of
8 the subcommittee only. When we are talking the votes,
9 it's only the members of the subcommittee should vote on
10 those.

11 PRESIDENT CARTER: Okay. So in light of that
12 what we'll do is we'll entertain a motion to approve the
13 minutes from March 14th workshop and the March 16th Board
14 meeting and then a separate motion for the subcommittee
15 meeting minutes.

16 GENERAL MANAGER PUNIA: That's correct.

17 SECRETARY DOHERTY: Then I make a motion that we
18 approve the two, not the subcommittee, minutes as mailed
19 with the correction. That correction was for the other
20 one. No, that was for this one.

21 PRESIDENT CARTER: That was for the March 14th.

22 Okay. So there's a motion on the table to
23 approve March 14 workshop and March 16 Board meeting
24 minutes.

25 Is there a second?

1 VICE-PRESIDENT HODGKINS: Second.

2 PRESIDENT CARTER: Okay. Okay. Any discussion?

3 All those in favor indicate by saying aye.

4 (Ayes.)

5 PRESIDENT CARTER: And opposed?

6 Motion carries.

7 And now the March 22nd minutes for the Three

8 Rivers Levee Improvement Authority Subcommittee.

9 Is there a motion to approve?

10 SECRETARY DOHERTY: I will make a motion that we
11 approve those minutes as mailed.

12 PRESIDENT CARTER: Okay. Any second?

13 VICE-PRESIDENT HODGKINS: Second.

14 PRESIDENT CARTER: Very good.

15 Any discussion?

16 All of those subcommittee members in favor of
17 that indicate by saying aye.

18 (Ayes.)

19 PRESIDENT CARTER: And opposed?

20 So there are three ayes, and those minutes are
21 approved.

22 Next is Item 4, approval of the agenda.

23 Are there any suggested changes to the agenda?

24 I'm aware of one, specifically Item 9B. At the request of
25 the applicant, that will be an informational discussion.

1 We will hold it in the same order as is published on the
2 agenda, but there is no action to be taken on that at this
3 point due to the fact that the applicants are not ready at
4 this time. But this will be good preparation for Board
5 action hopefully at our next meeting.

6 Are there any other changes?

7 It should be noted that on Item 9C and 10 the
8 Board did not receive the packages on that until Wednesday
9 evening. Those are -- that's probably not enough time for
10 us to review those. There are several of us that haven't
11 had a chance to review those. We may or may not take
12 action on those items, but we will hear those items as
13 well.

14 SECRETARY DOHERTY: Those are items what, 9 and
15 10, did you say?

16 PRESIDENT CARTER: 9C and Item 10.

17 We need more time. And the Board will I think in
18 the future be considering a policy that establishes a
19 deadline for items to be submitted to the Board before
20 action will be taken.

21 VICE-PRESIDENT HODGKINS: We ought to discuss
22 that when we do the next agenda.

23 PRESIDENT CARTER: Yes. And we will be
24 discussing that later on in the meeting.

25 So any other changes to today's agenda?

1 If not, we'll entertain a motion to approve the
2 agenda.

3 SECRETARY DOHERTY: I make a motion that we
4 approve the agenda with the alterations stated.

5 PRESIDENT CARTER: Is there a second?

6 BOARD MEMBER RIE: Second.

7 PRESIDENT CARTER: Okay. All those in favor
8 indicate by saying aye.

9 (Ayes.)

10 PRESIDENT CARTER: And opposed?

11 Okay. Very good.

12 Now, we'll move on to Item -- let's see, we're
13 going to move to Item 9. The consent calendar is not
14 timed. We'll go ahead and -- since we're behind, we'll
15 try and move on with our timed items.

16 So, Item 9A, the Yuba River Basin Project.

17 Ms. Mullin.

18 This is an item, consider approval of letter to
19 the U.S. Army Corps of Engineers requesting credit under
20 Section 104 of Public Law 99-662 for flood improvements
21 within Segment 2, commonly referred to as the Feather
22 River setback, of the project area.

23 MS. MULLIN: I think we're having some technical
24 difficulties.

25 PRESIDENT CARTER: If anybody has any items that

1 they want to put on the system, we'd appreciate it if
2 they'd do that during the breaks and get them all cued so
3 that when we come to these items, we can move through them
4 quickly.

5 MS. MULLIN: Well, it was actually from the
6 computer this morning. But the computer shut itself off.

7 (Thereupon an overhead presentation was
8 Presented as follows.)

9 MS. MULLIN: Okay. Good morning, members of the
10 Board, President Carter. My name's Erin Mullin. I'm a
11 project manager with The Reclamation Board.

12 Today I'm here to discuss The Reclamation Board's
13 Yuba River Basin Project and their local sponsors
14 application for Section 104 credit.

15 --o0o--

16 MS. MULLIN: The Yuba River Basin Project is
17 located in Yuba County north of here. It is bordered to
18 the north by the Marysville ring levee and the Yuba River,
19 the Western Pacific Interceptor Canal to the east, and the
20 Feather River to the west and Bear River to the south.

21 --o0o--

22 MS. MULLIN: This is a picture of a watershed
23 that contributes to this basin.

24 --o0o--

25 MS. MULLIN: The history of this project is this

1 area has had a -- kind of a had a unfortunate history of
2 major floods with catastrophic damage and loss of life.
3 The area suffered floods in 1950, 1955, 1964, 1986, and
4 1997. So approximately every 10 years.

5 --o0o--

6 MS. MULLIN: The initial study began in the
7 1990s. We signed the Feasibility Cost Sharing Agreement
8 in 1991. The project was federally authorized in WRDA in
9 1999. A design agreement was signed with The Reclamation
10 Board in June of 2000. We received state authorization in
11 September of 2000 and a general reevaluation report began
12 in 2004 because of cost increases and underseepage
13 concerns.

14 --o0o--

15 MS. MULLIN: Currently the study is focusing on
16 three alternatives. The first one would be a fix-in-place
17 alternative where the levees would be strengthened and in
18 place.

19 The second alternative is fix in place along the
20 Yuba and Marysville ring levee and the Western Pacific
21 interceptor Canal, fix in place along the Bear, and a
22 setback along the Feather River. In the slide you can see
23 the current alignment of the Feather River levee and the
24 setback alignment.

25 The third alternative would be fix in place for

1 all the levees except for the Feather River setback and
2 the Bear River setback.

3 --o0o--

4 MS. MULLIN: In your package you will find a copy
5 of the letter sent by Yuba County Water Agency requesting
6 that we forward their application for Section 104 credit
7 to the Army Corps of Engineers for the setback levee along
8 the Feather River, also known as Segment 2.

9 The setback levee is currently being studied as
10 one of the alternatives in the Yuba River Basin GRR. And
11 the setback levee is included in the federally authorized
12 project.

13 The Reclamation Board and Yuba County Water
14 Agency may be eligible for federal credits for doing this
15 work.

16 And I would like to introduce Curt Aikens, the
17 General Manager of Yuba County Water Agency, your local
18 partner in this project.

19 MR. AIKENS: Thank you, Erin.

20 I'm here just to make the request that The
21 Reclamation Board forward this on to the Corps for their
22 analysis. What this really does is there's a significant
23 amount of money being proposed from local and the state
24 perspective of moving this project forward. With this
25 Section 104 letter all it does is create the eligibility

1 to get credit in the future.

2 A previous slide that Erin showed was the Yuba
3 Basin Study Area. And our focus from a local perspective
4 and a state perspective is to use credits from the
5 advanced construction to apply to the Marysville ring
6 levee and use that as the funding source for the
7 Marysville ring levee. So what we're really talking about
8 here is obtaining money to move the Marysville ring levee
9 forward and that construction project. All this does is
10 create eligibility for that. The Corps still has to
11 complete their study and then they have to analyze and say
12 whether this is the way they would have done it. And if
13 it was the way they would have done it, how much money
14 would they have spent? And then that's the amount that
15 would be accredited -- or available for credit for a
16 future portion of the project.

17 And so our request from a local basis is that you
18 approve the letter going forward for the Corps to make
19 their analysis of our request.

20 SECRETARY DOHERTY: May I ask you a question?

21 MR. AIKENS: Sure.

22 SECRETARY DOHERTY: You're saying a ring levee.
23 Which levee are you referring to?

24 MR. AIKENS: I'm referring to the eight miles of
25 levee that ring around or circle around the City of

1 Marysville. The City of Marysville is about a population
2 of 12,000 people. It's a fairly small area. And the Yuba
3 Basin Project that's under study by the Corps comprises of
4 both the southern portion, which is Reclamation District
5 784, and the northern area, which is the Marysville ring
6 levee.

7 So if you look at the series of red dots, that's
8 the Marysville ring levee. And so the theory here is if
9 you do advanced construction on a project, that is money
10 that is potentially credited towards another portion of
11 the project from the federal budget. And so that's all
12 we're asking to do, is create that eligibility for this to
13 move forward. And it's important both from a state and
14 local perspective is because we're the entities that are
15 putting the money into the advanced work on the project,
16 and that would make that money eligible for funding the
17 Marysville ring levee portion.

18 PRESIDENT CARTER: Any further questions for Ms.
19 Mullin or Mr. Aikens?

20 Did you want to continue?

21 MS. MULLIN: Yeah, I just want to summarize.

22 --o0o--

23 MS. MULLIN: Okay. In summary, The Reclamation
24 Board is currently partnering with the Army Corps of
25 Engineers and Yuba County Water Agency for the Yuba River

1 Basin GRR. The Feather River setback levee is one of the
2 alternatives that is currently being studied under this
3 GRR. Forwarding the 104 application would enable The
4 Reclamation Board along with Yuba County WATER agency to
5 be eligible for federal credits if it is adopted as part
6 of this project.

7 --o0o--

8 MS. MULLIN: Our requested Board action is that
9 you delegate authority to the General Manager to sign the
10 letter forwarding Yuba County Water Agency's request For
11 section 104 credit.

12 Are there any questions?

13 PRESIDENT CARTER: Any questions for Ms. Mullin?

14 Thank you very much.

15 Mr. Aikens, I do have a card. Did you have
16 anything else to add?

17 MR. AIKENS: No, I don't.

18 PRESIDENT CARTER: Okay. Mr. Mayer.

19 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Thank
20 you. I'll be very brief.

21 For the reasons that you've heard and also
22 because Proposition 1E very clearly requires the state do
23 everything it can to maximize federal cost sharing on
24 projects, the Department of Water Resources believes it's
25 very appropriate for the Board to proceed on this

1 application and request that the Corps of Engineers
2 provide Section 104 credit to the extent that DWR and the
3 Board were to approve a project in the future consistent
4 with this. And that is not a done deal from the
5 Departments perspective or from the Board's perspective.
6 We understand that. However, because of timing, we think
7 it's prudent to proceed now in order to maximize
8 eligibility for crediting.

9 PRESIDENT CARTER: Any questions for Mr. Mayer?

10 Okay. Very good.

11 Mr. Eres.

12 MR. ERES: Good morning. Tom Eres representing
13 Hofman Ranch. I addressed this issue once before. I see
14 it's before you again. And my arguments are the same.
15 It's still putting the cart before the horse. There's
16 some sort of a notion that there's a time sensitivity to
17 get this letter in now in order to get it in the
18 processing. However, it presupposes, as the letter has
19 stated, that there's already been an approval, if not in
20 principle, in fact for purposes of a full setback levee,
21 which there has been.

22 The notion that somehow the Yuba County Water
23 Agency is now a new member into this whole discussion of
24 what Three Rivers Levee Improvement has been doing is odd.
25 They've only shown up in terms of this attempt to get this

1 letter relatively recently. What money they've been
2 putting into this project, perhaps in loans and grants,
3 I'm not sure. But the reality of, I was told and our
4 clients believe, this is a Three Rivers Levee Improvement
5 Authority JPA project.

6 Yuba County Water Agency could have been a part
7 of Three Rivers. Chose not to be. So how they are trying
8 to get the benefit of something that a JPA is doing in
9 order to I guess get some sort of a credit of funds to the
10 state is unclear to the public generally.

11 And, again, I get to the point now where I'm
12 hearing this morning some apple-and-oranges discussion
13 about a ring levee in Marysville somehow being connected
14 to what we like to call the ring levee of Plumas Lakes
15 Specific Plan Area.

16 Now, what are we talking about here in terms of
17 what credit is being requested for advanced funding to do
18 what? Again, those of us who are simply are trying to
19 read what has been presented to us, it's unclear. The
20 March letter from Yuba County Water Agency in my view is
21 nothing more than an attempt to put a saddle on to Three
22 Rivers. And I'm not sure how they do that. There may be
23 logical answers for that, but it doesn't make any sense
24 from my standpoint.

25 So, again, it seems to me that at the end of the

1 day by trying to move this thing before The Reclamation
2 Board has chosen whether or not a setback levee or an
3 intermediate setback levee or a modified intermediate
4 setback levee or a strengthening in place has been decided
5 is premature. There has been no showing, certainly not
6 this morning and neither before, that there's exigent time
7 circumstance in order to try to push this letter through.
8 It may be that they can make a case that there's some
9 exigent circumstance, but certainly it has not been made
10 yet.

11 So my recommendation is the letter wait until
12 such time as this Board has taken up the full Three Rivers
13 Levee Improvement Authority request, and you choose, you
14 decide which one of the strengthen-in-place, intermediate,
15 intermediate plus or minus, or a full setback levee has
16 been decided upon.

17 Thank you.

18 SECRETARY DOHERTY: Mr. Aikens, somewhere in
19 reading the history of the Three Rivers Levee Improvement
20 Association, the Yuba County Water Agency was a portion of
21 that, and then they withdrew. Why did you withdraw?

22 MR. AIKENS: We were never a portion of --
23 formally of Three Rivers Levee Improvement Authority.
24 There were discussions going forward about who should be
25 the appropriate partners in that organization. And the

1 decision was made not to go forward.

2 To answer the question of how we're linked to
3 this project, that is, back in the late eighties we
4 requested, with the help of DWR, to have a reconnaissance
5 study to see if there was a federal interest in a federal
6 project for improving the levees in Yuba County,
7 specifically in the 784 and Marysville ring levee. That
8 was indeed shown to show -- or that reconnaissance study
9 showed there was a federal interest.

10 The next step is to do a feasibility study. And
11 a feasibility study, there's three partners in it:
12 There's the Corps; there's a state partner, which is DWR,
13 The Rec Board; and then there's a third partner, there's
14 the local partner. And Yuba County Water Agency is the
15 official local partner. We've signed a project -- a local
16 project cooperation agreement with the State of
17 California. We are paying the local portion of the fees
18 for moving this study forward.

19 And so therefore we are the responsible local
20 party to make this Section 104 request. It has no bearing
21 on whether Three Rivers project goes forward with a
22 setback or not. It simply says if this project does go
23 forward as a setback. Doesn't set any precedence or
24 anything for that. It just makes -- it asks for if money
25 is spent on it and that is what the Corps does see as a

1 preferred alternative, it makes that money eligible for
2 credit for a future portion of the job.

3 And the job, as I see it, is both the 784 levees
4 and the Marysville ring levee. And what we're looking for
5 is, because of the advanced payments that have been made
6 on a local basis and a state basis, is that simply we
7 create the eligibility for any advanced work to be
8 credited towards the Marysville ring levee.

9 SECRETARY DOHERTY: Now, before today I had not
10 heard the expression "ring levee". So if I were to come
11 across the bridge from Yuba city into Marysville on
12 Highway 20 and I head out towards Browns Valley, out in
13 that direction, would I expect -- eventually is there a
14 plan for a levee to be out there that would go across all
15 those fields --

16 MR. AIKENS: This is an existing --

17 SECRETARY DOHERTY: -- on the north side of the
18 city?

19 MR. AIKENS: This is an existing levee that
20 exists now. It is part of the state project levees. It
21 is a levee that is currently being, you know, studied for
22 improvement. The general feeling is that -- or what's
23 being shown so far in the study is that there are
24 improvements that are needed to bring it up to a higher
25 level of protection. The study is looking at between the

1 2- and 300-year level of protection. It's ongoing, so we
2 don't have exact figures. But we're looking at about --
3 you know, a rough estimate is in the order of \$50 million
4 worth of levee improvements that are needed to bring these
5 levees up to a 200-year or higher level of protection.

6 And we simply call it a ring levee because it
7 rings the City of Marysville. If you look at the City of
8 Marysville in high water conditions, it's surrounded by
9 water all the way around just connected by several
10 bridges.

11 PRESIDENT CARTER: Mr. Bradley, did you want to
12 say something?

13 CHIEF ENGINEER BRADLEY: Yes, I just wanted to
14 reiterate, I think that the -- as a state agency, the
15 Board ought to very seriously consider approving this 104
16 request. It is not approval of any kind of a project. It
17 is just a request that if a project goes forward and if
18 the Corps determines that it's part of the federal
19 project, that the state can get reimbursed for its money
20 and the state and local agencies can get reimbursed for
21 that money.

22 The Board has a lot to say on whether a project
23 goes forward or not, whether it's a federal project, you
24 are the non-federal partner with the Corps on flood
25 control; if it's a local project, regardless of whether

1 it's the state putting it forward or a local entity such
2 as Three Rivers, it's an encroachment permit process and
3 you will again have approval authority.

4 So this request has nothing to do with the
5 projects themselves. It's only a request to be able to
6 leverage state money with federal dollars in the future if
7 a couple of things happen: You approve the project, and
8 if the Corps decides that that project that was approved
9 would have been part of the federal system. So I
10 encourage you to really think about this.

11 There is a time lag. It takes time to get this
12 kind of approval through the federal system. And if you
13 don't make it now, then any work that starts before this
14 approval is non-creditable. The federal government will
15 not credit those costs or any cost spent before the
16 letter's approved. So there is a timing issue.

17 As Mr. Eres said, we've not approved a setback
18 levee. We're not asking you to approve a setback levee.
19 Only if you approve a setback levee and if the federal
20 government says that that is what they would have done
21 would you get credit for it. But that credit has to be in
22 place before any work is done.

23 BOARD MEMBER RIE: Does the letter need to be
24 sent now or can it wait six months?

25 CHIEF ENGINEER BRADLEY: I think you need to send

1 it pretty quickly. You've already approved a project up
2 there in that area, so I think you should consider this
3 being requested now. I think it should be sent pretty
4 quickly.

5 VICE-PRESIDENT HODGKINS: Here's the thing with
6 respect to that: If the letter doesn't get sent and
7 approved by the Corps, and right now local but potentially
8 in the future state money is spent on planning, designing,
9 and constructing a project, that the federal government
10 when it finishes the feasibility of this study determines
11 would have been part of its project, the money that's
12 spent before the letter is approved by the Corps is not
13 creditable. And Three Rivers is ending up spending money
14 to move forward with 11 of those from the standpoint of
15 planning and design, and so that money would not be
16 creditable. If you look back and look at our -- the cash
17 flow, you know, they're spending money -- I'm going by
18 memory -- but at the rate of about \$2 million a month, I
19 think, that potentially is not creditable if we don't get
20 this letters from them.

21 And I would again make the point, it is not
22 approving the project, the setback levee, the alignment;
23 it is simply asking the Corps if they will approve the
24 concept here that whatever project we do approve, if it's
25 compatible with a project that they determine would be in

1 the federal interest, we get credit for the money that's
2 expended.

3 You know, in the water agency's defense, the
4 water agency was attempting to do at least a bigger
5 picture shot towards what Mr. Eres would like done. They
6 were looking at not only Three Rivers, but Marysville as
7 well. And so they were trying to plan flood control
8 facilities for the urban areas in their region. And, you
9 know, you've heard us talk about how long Corps studies
10 take. Well, they started with the recon study more than
11 20 years ago. Okay? And we're at the point now where the
12 Corps is still working on the feasibility study. In the
13 meantime part of the project has already been designed and
14 constructed by local sponsors.

15 So I think there's a certain frustration here
16 with this project. But in approving this letter -- how do
17 I say this? We are not punishing TRLIA or gaining any
18 leverage over TRLIA by not approving this letter. All
19 we're doing is potentially costing other areas of the
20 state. And while Curt said Marysville, I think the state
21 might be able to use the credit someplace else. Although
22 this particular letter is just for that one feasibility
23 study, we're simply potentially not taking advantage in
24 the long run of all of the financial resources that might
25 be available to us.

1 And so, you know, I'd like to move the item.

2 MS. MULLIN: I'd like to add something. As far
3 as the timing goes, construction for the setback levee is
4 scheduled to begin September. That's about three months
5 away. This letter needs to go to district and then it
6 needs to go division and then it needs to go to
7 headquarters. And it has to go through this process
8 before it can receive approval. It needs to be approved
9 before The Reclamation Board or Yuba County Water Agency
10 is eligible for credit for this construction.

11 So by delaying the letter, you're delaying your
12 ability to receive credit and you're delaying the
13 construction. And I mean as you've seen from the
14 pictures, there has been serious flooding in this area.
15 So every year that we don't do something, we are
16 jeopardizing those people.

17 SECRETARY DOHERTY: Ms. Mullin, you say that the
18 setback --

19 PRESIDENT CARTER: Just a point of order here.

20 SECRETARY DOHERTY: Oh, I'm sorry.

21 PRESIDENT CARTER: We have a motion on the table
22 to approve 9a.

23 Is there a second?

24 BOARD MEMBER RIE: Second.

25 PRESIDENT CARTER: All right. Now we can proceed

1 with discussion.

2 SECRETARY DOHERTY: You said that the setback
3 levee was set to begin in September?

4 MS. MULLIN: That's the correct construction
5 schedule, yes.

6 SECRETARY DOHERTY: Construction but not for the
7 setback portion.

8 MS. MULLIN: No, that would be for the setback
9 portion. They plan on -- they hope to start building the
10 foundation in September. Construction would go on through
11 the winter.

12 PRESIDENT CARTER: A question. What is the
13 implication of an outcome where the setback is not
14 approved and we take one of the other options you
15 mentioned? Is there going to be credit available for
16 those other options by virtue of this letter or -- let's
17 say we proceed down a different path. Do we have to send
18 another letter to get credit?

19 MS. MULLIN: Let me see if I understand your
20 question. You mean if the Board decides to proceed down a
21 fix-in-place path or --

22 PRESIDENT CARTER: Right, or some other option.

23 MS. MULLIN: If you went with another option, we
24 could send another letter for the work that was planned.

25 PRESIDENT CARTER: Okay. So this letter does not

1 request an approval of fixing the Feather River regardless
2 of options?

3 MS. MULLIN: No, it doesn't. It just --

4 PRESIDENT CARTER: Given the time constraints
5 we're looking at, doesn't it make sense to make the letter
6 a little more flexible?

7 MS. MULLIN: I don't know if that would -- if
8 that would be in compliance with Corps policy. I think
9 that you need to be fairly specific in your application
10 about what it is you're proposing to construct. If it
11 comes out that we decide to go with a fix-in-place option
12 or that we decide to -- or if the Board decides to go with
13 a different alternative, we can always send another letter
14 to the Corps with the application stating -- with all of
15 the required documents, stating this is -- but we decided
16 to go with this option instead. Sending this letter now
17 does not supersede the possibility of changing it in the
18 future.

19 PRESIDENT CARTER: I understand that. But that
20 means that everything that we've spent up to that point
21 where that second letter is approved is sunk cost and not
22 recoverable or not reimbursable.

23 So in the state's interest, wouldn't it make more
24 sense to make the letter -- word the letter in a more
25 flexible fashion so that we could claim credit regardless

1 of which option we go?

2 MS. MULLIN: Like I said, I don't believe that
3 that would be in compliance with Corps policy.

4 PRESIDENT CARTER: Is there a member of the Corps
5 that could speak to that here today?

6 MS. MULLIN: I believe that there is a Corps
7 planner here.

8 Frank Piccola from the Corps.

9 MR. PICCOLA: Good morning.

10 PRESIDENT CARTER: Good morning.

11 MR. PICCOLA: I'm Frank Piccola, the Chief of
12 Planning Division, the Corps of Engineers in Sacramento.

13 I don't know -- when you say flexible in terms of
14 the letter, now, how flexible do you want to be? I would
15 just say that in order for this process to be completed,
16 the Corps of Engineers would have to compare what
17 structures were actually built. In this case we're
18 talking about setback levee, against what the Corps would
19 have recommended. So we have to be specific enough so
20 that we can make that comparison. But we just can't say
21 if we build something along the Feather River or something
22 along the Yuba River, that we want credit for it. We'd
23 have to say it was part of our plan, we would have built
24 it, and you gave us an application in advance saying that
25 you wanted credit for some portion of that; and you were

1 specific enough that described to me what that was so our
2 engineers could evaluate, our economists, and so on, so we
3 could determine if it was in the federal interest.

4 I think there's some flexibility. But I don't
5 know how flexible you're considering making the letter.

6 PRESIDENT CARTER: Well, to the extent that we
7 could -- Ms. Mullin has presented three separate options
8 in her presentation. It could be any of those three.
9 Could we mention those three options and say that we are
10 doing the study to determine which options make more
11 sense? They are all within that same region. They are
12 all within the scope of the project. Depending on which
13 ones we choose -- which one of those three we choose,
14 could we request credit?

15 MR. PICCOLA: My opinion --

16 PRESIDENT CARTER: Those options are fairly
17 specific.

18 MR. PICCOLA: My opinion is that the Corps
19 probably wouldn't approve that all the way through
20 headquarters. They -- because what we do is we send this
21 on to Congress, and Congress has to put this in the
22 appropriations bill. And they're going to want to know,
23 "What are you choosing to build?" And if you say,
24 "Setback levee," "Fine, we'll then evaluate that and see
25 if that would have been part." If you say you want to fix

1 in place and then use any one of those options, fine. But
2 to give an array and say, "We want money for something;
3 we're not sure what," they may come back at headquarters
4 and say, "Well, wait till the GRR is finished" -- "until
5 the General Evaluation Report is finished, and then come
6 back and tell us," you know. And then it's too late.

7 So I would recommend you be specific enough to
8 pick one of the options that are displayed on your screen.

9 PRESIDENT CARTER: Right. Well, that's the
10 point. The Board hasn't picked an option.

11 And so, you know --

12 MR. PICCOLA: If I might. You're not really
13 picking an option for construction. What you're doing is
14 you're requesting that this be processed through the Corps
15 process. And as Ms. Mullin said before, you could always
16 write another letter. It doesn't harm to do that. You're
17 not committing yourself to any option this way.

18 PRESIDENT CARTER: I understand.

19 We're still not best protecting the state's
20 interests if we change directions. Then everything that
21 we've done to that point, we still -- that's money under
22 the bridge basically.

23 MR. PICCOLA: I suppose you could look at it that
24 way.

25 PRESIDENT CARTER: Mr. Aikens.

1 MR. AIKENS: This letter simply allows the credit
2 if this project goes forward, of which the letter
3 determines nothing about the project going forward. If
4 the project were determined not to go forward as a
5 setback, another item would -- or another route would be
6 selected. There would be time for the Yuba County Water
7 Agency as the local sponsor to draft another letter, get
8 that into the process, and ask the same type of request
9 for the other project.

10 If this one's not approved at this point in time
11 to go forward, the risk is, as Butch said -- you know,
12 when these projects get started, you start spending
13 millions of dollars pretty quickly, and you risk losing
14 that from a local and state perspective. So I'm clearly
15 confident that if we go down a different route, we'll put
16 together another letter, we'll preserve all the money we
17 can from a state and local perspective in moving forward.
18 And I don't see that going down another path and this
19 letter not being flexible affecting that at all. We'll
20 prepare a letter that will preserve all the local credit
21 that we can in the future.

22 PRESIDENT CARTER: Mr. Punia.

23 GENERAL MANAGER PUNIA: In response to President
24 Ben Carter's question, if the setback levee project is not
25 approved, then there will be a different schedule. If the

1 project is strengthening in place, the schedule will be
2 delayed and we will have sufficient time to send another
3 letter on that alternative.

4 PRESIDENT CARTER: Delaying the project is not a
5 prospect that -- I don't think any member of the Board
6 wants to entertain. So the real challenge is trying to
7 figure out how we can make this work without delaying the
8 project, and get credit for as much money as we can from
9 the federal government.

10 So I mean if you want to do it in series, it can
11 be done in series. But that's going to cost the state
12 money; that may cost the project some time. Is there a
13 way we can do it in parallel?

14 MS. MULLIN: I'm sorry. What do you mean by in
15 parallel?

16 PRESIDENT CARTER: I guess to keep our options
17 open. And if -- what I foresee happening is, say, that
18 the setback is not approved by the Board, construction is
19 going to -- we're going to want to go proceed posthaste
20 with construction on whatever option is chosen. And we're
21 going to be spending money from the get-go on that. That
22 money is not going to be recoverable because we've got a
23 three or four month time lag with the Corps to get credit
24 for that.

25 We're not excited about delaying the construction

1 of the project from a public safety perspective. Let's
2 say strengthen in place is chosen. Strengthen in place is
3 going -- the construction on that is going to proceed
4 probably on a similar schedule as if the setback were
5 going ahead.

6 MS. MULLIN: Creating and forwarding another
7 letter would not take that much time.

8 PRESIDENT CARTER: Okay. If you can assure me
9 that there won't be a delay and the state won't lose
10 opportunities for reimbursements as a result of doing it
11 in a serial basis, then that's fine.

12 Mr. Punia.

13 GENERAL MANAGER PUNIA: The reality is that an
14 applicant has submitted an application for a setback
15 levee. If the direction is that they have to go back and
16 choose a strengthening in place, then they have to restart
17 the design work and the process will be delayed. And we
18 will have the time to submit another Section 104 letter.

19 PRESIDENT CARTER: Okay.

20 BOARD MEMBER RIE: I have a question.

21 In the March 23rd letter to Jay Punia from Mr.
22 Aikens, it states that the water agency made a request for
23 32.7 million for strengthening the levee in segments 1 and
24 3 on January 23rd, 2007.

25 What is the status of that approval letter and

1 what is that specifically for?

2 MS. MULLIN: That is for -- for Corps credit for
3 Sections 1 and 3. And I -- have we -- Mr. Aikens assures
4 me that we have gotten credit from the Army Corps on that.
5 I haven't received a letter yet.

6 BOARD MEMBER RIE: But is that -- what I was
7 asking is what type of work was that for? Was that
8 strengthen in place?

9 MS. MULLIN: That was strengthen in place. That
10 was the work that was associated with the permit that you
11 approved last Friday.

12 BOARD MEMBER RIE: Okay. So in segments 1 and 3,
13 we're asking for Corps credit for strengthen in place.
14 And today we're asking for a setback levee in segment 2?

15 MS. MULLIN: Um-hmm. And Mr. Mayer told me that
16 the request for the 104's still pending on Sections 1 and
17 3.

18 BOARD MEMBER RIE: So is that part of the
19 description in the Corps's study for this project, to do a
20 strengthen in place for 1 and 3? Is that consistent with
21 what they're studying at this time for funding?

22 MS. MULLIN: Yes, that it is consistent.

23 BOARD MEMBER RIE: Okay.

24 PRESIDENT CARTER: I think the Board approved a
25 Section 104 request for segments 1 and 3 about three

1 months ago. I don't recall the exact meeting, but --

2 BOARD MEMBER RIE: Must have been January,
3 because the letter went out January 23rd.

4 PRESIDENT CARTER: The Rec Board letter?

5 BOARD MEMBER RIE: The 104 credit letter.

6 PRESIDENT CARTER: Okay. Mr. Hodgkins.

7 VICE-PRESIDENT HODGKINS: Yeah. Can I ask Yuba
8 County Water Agency a question.

9 If your letter were modified to delete reference
10 specifically to a setback levee and simply instead talk
11 about the levee improvements by -- you know, between levee
12 mile dah and levee mile dah necessary to improve that,
13 would you be willing to do that? And can I ask the
14 question? Has the 104 process gotten to the point where
15 you can't be a little unspecific about exactly what it is
16 you're going to do? I mean --

17 MR. AIKENS: That could take consultation with
18 the Corps to see what we could do. I don't have an answer
19 for you at this point in time.

20 The really material issue here is all we're
21 saying -- all we're requesting is if this goes through,
22 this is the time to submit this letter to the Corps. And
23 even if it is submitted and there is a change in path, we
24 will have plenty of time to submit another letter on the
25 new path to secure credit eligibility for both the state

1 and the local. That's the only issue here. I do not see
2 this as a path of saying whether, you know, the setback
3 proposal goes forward or another proposal. That's a
4 different decision for a different time and different
5 agenda item.

6 You know, you see an example of segments 1 and 3.
7 I was mistaken about receiving credit on it. But we
8 submitted that several months ago -- I think it's probably
9 January -- and they still haven't ruled on it. That's
10 part of the process that we are concerned with, because it
11 takes months for these things to work it's way through the
12 Corps process. And, for example, if the decision is made
13 to go forward with the setback levee, we want to be in
14 position to have -- or create the eligibility for all the
15 credit that we can.

16 If we go down a different route, we'll make
17 sure -- we'll take the prudent action to make sure that
18 that happens. I'd just like to reemphasize, this is not
19 an issue of saying whether this, you know, setback goes
20 forward or not. It is simply the issue of creating the
21 ability to be as eligible for as much money as possible
22 should it go forward.

23 PRESIDENT CARTER: I think that issue has been
24 made very, very clear by at least a half a dozen people
25 here.

1 Any further questions for Ms. Mullin or anyone
2 else?

3 Okay. So we have a motion and a second before
4 us.

5 No further discussion?

6 Mr. Punia, would you call the roll.

7 GENERAL MANAGER PUNIA: Vice-President Butch
8 Hodgkins?

9 VICE-PRESIDENT HODGKINS: Aye.

10 GENERAL MANAGER PUNIA: Board Member Teri Rie?

11 BOARD MEMBER RIE: Aye.

12 GENERAL MANAGER PUNIA: Board Member Lady Bug?

13 SECRETARY DOHERTY: Aye.

14 GENERAL MANAGER PUNIA: President Ben Carter?

15 PRESIDENT CARTER: Aye.

16 The motion carries.

17 MS. MULLIN: Thank you.

18 PRESIDENT CARTER: You're welcome.

19 We'll move on to Item 9B, Folsom Dam Safety and
20 Flood Damage Reduction Joint Federal Project.

21 As we noted when we were discussing the agenda,
22 this is an informational briefing. There will be no
23 resolution to approve today.

24 Mr. Charney. Good morning.

25 MR. CHARNEY: Thank you.

1 (Thereupon an overhead presentation was
2 Presented as follows.)

3 MR. CHARNEY: Mr. Chairman, members of the Board,
4 General Manager Punia, ladies and gentlemen. Thank you
5 for your time today. My name is Robert Charney. I work
6 in the Project Development Branch for The Rec Board and
7 DWR. My responsibility are the suite of projects out at
8 Folsom Dam.

9 --o0o--

10 MR. CHARNEY: Thank you again for approving the
11 change in agenda to go to an information item as opposed
12 to an action item. There are quite a few challenges with
13 this project and with the resolution that we will be
14 bringing before you. We want to give the Board as much
15 time as possible to understand what it is we will be
16 asking them.

17 So briefly our plan today is I'm going to brief
18 you on the status of the projects and discuss the scope of
19 the EIR/EIS that you should have received a few weeks ago
20 and to discuss just in brief the resolution that is being
21 developed for you that you would see in July. And I'm
22 going to ask our partner agencies to make a statement in
23 support and to discuss their roles.

24 And then in July I'll come back and I will
25 rebrief you again and answer any questions that you have

1 after you've had time to review the materials and request
2 that you'll approve our resolution.

3 --o0o--

4 MR. CHARNEY: Basically the status of the
5 projects out at Folsom Dam, it's a multi-agency effort,
6 being conducted by the Corps of Engineers under their Dam
7 Modifications Project and their Dam Raise Project, as well
8 as by the Bureau of Reclamation. The Corps and
9 Reclamation have agreed on a plan that will substantially
10 meet their goals as well as the Board's goals and SAFCA's
11 goals for Folsom Dam. And they consummated that agreement
12 by signing the Joint Record of Decision on May 5th.

13 --o0o--

14 MR. CHARNEY: Let me pause for a moment and share
15 with you some of the work that is not moving forward yet,
16 but will, that is continuing in the planning process.

17 Basically the Folsom Dam Raise, which involves
18 raising the pertinent dikes, Mormon Island Dam, three and
19 a half foot, that is still in the Corps's recommended
20 plan. But we're going to continue to do planning efforts
21 before we bring that before the Board for approval. As a
22 part of that plan there will be replacement of three
23 emergency gates.

24 Again, the Record of Decision -- federal Record
25 of Decision is still draft. Reclamation and the Corps are

1 still working out details on this part of the work out at
2 Folsom.

3 --o0o--

4 MR. CHARNEY: What is ready to go and what is the
5 highest priority for all of the sponsors is an auxiliary
6 spillway, six submerged tainter gates control section,
7 approach channel and spilling basin. And this was
8 assigned over to the Federal Record of Decision wherein
9 the Corps and the Bureau of Reclamation agreed on this
10 work. With that, we're ready to go.

11 --o0o--

12 MR. CHARNEY: We now refer to these items as the
13 Folsom Joint Federal Project. And we have a lot of names
14 to these projects. We have Folsom Project, Folsom Raise,
15 we have Joint Federal Project. We have all sorts of
16 names. And I want to try to be clear so that you
17 understand what it is we're -- what's going forward. And
18 that's why I emphasized that little change.

19 --o0o--

20 MR. CHARNEY: A little bit of about the project
21 itself, where we stand today with the studies, et cetera,
22 that have been done. We're looking an \$847 million total
23 cost. Of that, 239 million will be carried by the
24 non-federal sponsors. The Corps has estimated that
25 another two years of design effort will ensue before we've

1 completed the design work for the entire project.

2 Nonetheless, we do understand what the
3 cross-section of the spillway will look like. And the
4 Bureau of Reclamation will begin excavation of that
5 spillway this fall.

6 --o0o--

7 MR. CHARNEY: Here's a quick look at the plan for
8 the spillway -- plan section. And I would call your
9 attention to the size of the concrete dam itself so you
10 have some idea of the scope and magnitude of the project
11 that we're undertaking out at Folsom. And as you can see,
12 that spillway carries a lot of water and it's very
13 important to the protection of the Sacramento region.

14 --o0o--

15 MR. CHARNEY: Here's an artist's rendering of the
16 spillway, the gated structure as well as the new bridge
17 and roadway that's being constructed. And somebody had
18 joked with us that it was -- this artist rendering was
19 done on a bright sunny day, whereas more than likely it
20 would be raining when there's water spilling down the
21 spillway.

22 --o0o--

23 MR. CHARNEY: Now, I'm going to take a moment to
24 discuss the environmental documents that again was sent to
25 you a couple weeks ago. The environmental documents that

1 were sent to you covers many different things. It covers
2 work that's being done by the Bureau of Reclamation, for
3 which this Board is not involved, that includes security,
4 homeland security work for the dam; it also includes
5 safety of dams work that this Board does not get involved
6 with. The environmental document covers the dam raise,
7 which I mentioned is not ready on to go forward. So I'm
8 trying to express to you that we're asking you to move
9 forward on just those elements that are the Joint Federal
10 Project.

11 Furthermore, there is additional work to be done.
12 When these facilities are constructed there will be a
13 change in the operation of Folsom Dam. And that change in
14 operation has not been fully vetted. And there will be a
15 separate environmental document to cover the change of
16 operations that are required to support the Joint Federal
17 Project.

18 --o0o--

19 MR. CHARNEY: Here's what is in the -- I'm going
20 to go into a little more detail in terms of what is in the
21 environmental document. There's the Corps's recommended
22 flood damage reduction plan and the Bureau of
23 Reclamation's safety of dams work. You'll find under both
24 of those categories is the Joint Federal Project. As I
25 say, the dam raise is within the environmental document.

1 The environmental restoration associated with the dam
2 raise is in the document. The Bureau's security and dam
3 safety work is within the document.

4 Now I'm going to back out what we're not asking
5 the Board to adopt or approve. We're not asking you at
6 this time to adopt the dam raise or the environmental
7 restoration or any of the work that's being done by the
8 Bureau of Reclamation.

9 What's left is the Joint federal Project.

10 --o0o--

11 MR. CHARNEY: Any questions at this point? I do
12 have more slides. But I want to make sure that I'm being
13 clear?

14 --o0o--

15 MR. CHARNEY: Now that we have the Joint Federal
16 Project, the work has been divided amongst the two federal
17 agencies.

18 In general, the Corps is handling the larger
19 structural elements, including the six tainter gate
20 structure and the spillway lining, approach channel and
21 stilling basin.

22 And the Bureau is handling in particular the
23 excavation of the spillway Phase 1, which is the bulk of
24 the material movement, as well as environmental
25 mitigation. And I wanted to emphasize environmental

1 mitigation.

2 CEQA allows that the environmental mitigation
3 work that needs to be done is performed by another agency.
4 The resolution that will be before you will identify that
5 the Bureau of -- I mean -- yeah, the Bureau of Reclamation
6 will be doing that mitigation work. They made a formal
7 commitment to do that work in the ROD that was recently
8 signed.

9 --o0o--

10 MR. CHARNEY: Key points again. Asking the Board
11 only to certify parts of the environmental document. And
12 the Bureau of Reclamation will be handling the mitigation
13 work.

14 --o0o--

15 MR. CHARNEY: Resolution that's coming before you
16 in July, as I said, we had some difficulty hammering out
17 the wording. It's neither a small resolution or an easy
18 one necessarily to read, and that's why I wanted to come
19 to you earlier. But you will find that we start to
20 include things in that resolution and then back them out.
21 We ask you to adopt the environmental report, but then
22 note those things that are being handled by others.

23 --o0o--

24 MR. CHARNEY: And if you have no further
25 questions for me, I'm going to ask each of our partners to

1 come up and make a statement as well as to identify their
2 roles with the project moving forward.

3 PRESIDENT CARTER: Ms. Finch, with regard to the
4 request where they're asking us to certify the
5 environmental document and then proceed to identify items
6 that we're excluding, is that the customary approach to a
7 certification of the document?

8 STAFF COUNSEL FINCH: You're talking about the
9 EIR process on our side?

10 PRESIDENT CARTER: Yes.

11 STAFF COUNSEL FINCH: This is an adequate process
12 we have been working with them for this project. It's
13 adequate.

14 PRESIDENT CARTER: Okay. Thank you.

15 MR. CHARNEY: Now, would Stein come up and speak
16 on behalf of SAFCA.

17 MR. BUER: Good morning, Chair, members of the
18 Board. Thank you for taking the time to hear this as an
19 information item this morning. It is a very, very
20 important project to SAFCA.

21 SAFCA is the local sponsor for this project. And
22 this project is the centerpiece of our plan to achieve
23 200-year level flood protection for the metropolitan area
24 of Sacramento, with \$50 billion worth of damageable
25 property and 450,000 people at risk. So this is truly

1 important.

2 The levee construction that's been underway for
3 the past 18 years and will continue for the next 10 is
4 designed to be compatible with the releases that could be
5 achieved with the proposed spillway.

6 You may recall that just two years ago the
7 Corps's plan for modifying Folsom Dam hit a snag when the
8 plan essentially was unbuildable under the existing
9 framework and a difficult construction environment.

10 And what you have before you today is what I
11 would call a miracle of cooperation and technical
12 progress. In two years the environmental document has
13 been completed, starting from a dead start; a complete
14 reworking of the technical work has been achieved,
15 starting from a dead start. And we have been able to --
16 and when I say "we," the Corps of Engineers, the state,
17 SAFCA and the Bureau working together -- a remarkable
18 technical team has achieved an integration of very
19 difficult dam safety improvements, the probable maximum
20 flood accommodation, and integrating with that
21 200-year-level flood protection for the City of
22 Sacramento.

23 What the spillway will do is allow for the
24 earlier release of large amounts of water, up to channel
25 capacity of 160,000 cubic feet per second, so that in a

1 big flood -- a big flood of 450,000 cubic feet per second,
2 which is enough to fill the entire Yolo Bypass, can be
3 safely contained when this spillway is done.

4 Time is of the essence for us. Obviously we need
5 this protection now.

6 Secondly, our plan assumes that construction
7 proceeds expeditiously so that inflation doesn't eat up
8 the state, federal, and local funding we need.

9 As you know, Proposition 1E was passed. One of
10 the provisions in Proposition 1E was to allow for Folsom
11 Dam cost sharing. It is the one project mentioned by name
12 in Proposition 1E, and it is now constrained by the
13 200-year -- \$200 million constraint that other projects
14 have.

15 SAFCA recently passed as the community approved
16 an assessment to pay our share of this and other projects.
17 It was passed with an overwhelming level of support:
18 81.2 -- I'm sorry -- 81.8 percent, almost 82 percent
19 support for an election which raises assessments
20 throughout the community and will raise \$326 million. So
21 there is extremely strong public support for this project.
22 We have I think something to be proud of here. There is
23 state and national recognition for what is being achieved
24 here. And we would appreciate the strong support of the
25 Board as we move forward.

1 Thank you.

2 PRESIDENT CARTER: Thank you.

3 Any questions for Mr. Buer?

4 Thank you very much.

5 MR. CHARNEY: Rick Johnson is the Deputy Area

6 Manager for Reclamation -- Bureau of Reclamation

7 MR. JOHNSON: Good morning, Board and Chair. I

8 appreciate the opportunity to speak.

9 As Butch mentioned, a few years ago we had this
10 situation where we weren't able to proceed with the plan
11 of flood control work that was going to proceed at Folsom.
12 Bureau of Reclamation had a parallel program going on that
13 we had initiated in 2000, and it our dam safety work.

14 Folsom, as I know you're aware -- we always
15 pictured a concrete dam. But it has three other earth
16 dams and eight dikes. And it's grown up to be an urban
17 setting. And so dam safety -- it's our number one dam
18 safety priority in the whole country because of the
19 potential consequences of any type of a failure of not
20 only the concrete dam, but any of the earthen dams or
21 dikes. We not only have a potential of impacting
22 Sacramento, but you've got Folsom, parts of Placer County,
23 Roseville, and northern Sacramento, who are not in what
24 people would normally think of as their floodplain.

25 Folsom generally is in good shape. But it was

1 designed back in the forties and constructed in the
2 fifties. And because of potential consequences, we are
3 trying to bring it up to the most current design that we
4 can and reduce the risks absolutely the most that we can.
5 And as a result we have about \$500 million worth of dam
6 safety construction that we will be doing out at Folsom.
7 Included in that is the Joint Federal Project, as we have
8 a concern right now that the dam cannot pass the probable
9 maximum flood without overtopping and potential failure.

10 So when this opportunity came up to joint
11 projects a couple years ago, that the auxiliary spillway
12 emerged as a solution for both the flood control and the
13 hydrologic and safety issues that we had out at Folsom.
14 And I want to thank all of the effort that went on by the
15 Board members and the members of SAFCA and the Corps and
16 Robert and -- you have -- a lot of your staff has spent
17 hours and hours making this happen, and we appreciate
18 that.

19 We are expediting our construction. The first
20 construction package went out for solicitation on May
21 23rd. The proposals are due July 7th. And we plan on
22 awarding it in September at the latest and start
23 construction shortly thereafter, probably at the end of
24 October or early November.

25 Also additionally, we have a lot of elderberries

1 that have to be removed. Those will be done in the
2 November timeframe to clear the -- as you can see, the
3 channel is quite extensive there. There's a lot of
4 elderberries out there. So those will be moved in the
5 November timeframe.

6 So just -- I wanted to bring up this construction
7 because we feel that this is an expedited action and
8 we -- the Bureau of Reclamation are proceeding with
9 construction. But we don't have a complete project until
10 the Corps constructs the gates. And so that's why we're
11 here to support adopting the EIR and proceeding with the
12 Corps's part of the Joint Federal Project that the state
13 is also participating in.

14 Thank you for the time.

15 PRESIDENT CARTER: Any questions?

16 BOARD MEMBER RIE: Yes.

17 SECRETARY DOHERTY: You go ahead.

18 BOARD MEMBER RIE: Has the Bureau certified the
19 EIS yet?

20 MR. JOHNSON: We signed the ROD on May 5th. We
21 actually signed two separate RODs. One was for the Joint
22 Federal Project, which we signed jointly with the Corps of
23 Engineers. And the other included the rest of our dam
24 safety work and some security improvements were doing at
25 Folsom also. And that kind of pushed -- we were kind of

1 pushing that date because we needed to have that record of
2 decision in place so we could advertise. So that's what
3 kind of pushed our schedule.

4 BOARD MEMBER RIE: What about the --

5 MR. JOHNSON: We have funding this year that we
6 don't want to lose. We want to get it in place by
7 September.

8 BOARD MEMBER RIE: What about the mitigation
9 monitoring plan, has the Bureau approved that as well?

10 MR. JOHNSON: Yes. That was part of the whole
11 package. We've taken on the mitigation as part of our
12 work package.

13 The Corps and Reclamation -- how we're proceeding
14 on this, we've taken the project and developed work
15 packages -- that's what we're calling them -- of what each
16 of us will do. And the mitigation was one of the ones
17 that Reclamation agreed to do.

18 BOARD MEMBER RIE: And has the Corps already
19 adopted the portion of the EIS for the flood damage
20 reduction features?

21 MR. JOHNSON: For the Joint Federal Project the
22 Corps signed the Record of Decision at the same time we
23 did, on May 5th. It was signed by both agencies.

24 BOARD MEMBER RIE: Okay. So everything is ready
25 to go?

1 MR. JOHNSON: They did not address the raise and
2 some of the other things that they're looking at. But
3 they did do the Joint Federal Project.

4 BOARD MEMBER RIE: Did the Bureau approve the
5 portion of the EIS that discussed the raise?

6 MR. JOHNSON: We wouldn't need to on that.

7 BOARD MEMBER RIE: Okay. Just The Reclamation
8 Board needs to do that?

9 MR. JOHNSON: The raise portion of it would not
10 be -- is not one of our projects. It wouldn't be part of
11 our project. So we wouldn't need to approve that.

12 BOARD MEMBER RIE: What about the Corps?

13 MR. JOHNSON: Well, the Corps, it would be their
14 project, so -- I'll let Frank talk about it, but they're
15 going to do a record of decision that approves that.
16 They've already got that in the works.

17 BOARD MEMBER RIE: But it hasn't happened yet?

18 MR. JOHNSON: No.

19 BOARD MEMBER RIE: Okay.

20 SECRETARY DOHERTY: You mentioned that because of
21 the urbanization. Was the dam -- or would the dam have
22 been considered safe if urbanization had not occurred in
23 that area?

24 MR. JOHNSON: There are -- the probable maximum
25 flood would have still been an issue. And there are some

1 other things such as the seismic at Mormon Island.
2 What -- how Reclamation does it is when the federal
3 government -- when the Congress directed us to do the dam
4 safety program, they kind of put a limit on how much they
5 funded. So what we have done is gone through all the dams
6 in the country to determine kind of a risk not only from
7 technically whether the dam's safe, but then consequences,
8 and use that to prioritize what order we're going to fix
9 the dams. We intend to fix all the dam safety problems in
10 all the dams in the country. So eventually we would have
11 gotten to the Folsom here. But because of the
12 urbanization and the consequences downstream, it's our
13 number one priority in the country.

14 SECRETARY DOHERTY: Okay. And so the last phase
15 of your rebuilding out there will take place in 2020?

16 MR. JOHNSON: No. We will be done with our work
17 in 2012, I believe it is.

18 SECRETARY DOHERTY: Okay.

19 MR. JOHNSON: With the dam safety portion of our
20 work.

21 SECRETARY DOHERTY: Thank you.

22 PRESIDENT CARTER: Any further questions?

23 VICE-PRESIDENT HODGKINS: I'd just like to make a
24 comment.

25 It's good to see all three of you here at the

1 same time. And you're looking at three of probably the
2 most mature sort of senior executives for the Corps, the
3 Bureau, and SAFCA, who have been working together just in
4 an outstanding manner. And it shows it can be done. Two
5 years, that's an incredible accomplishment. And I hold
6 you guys up as an example as to how things like this
7 should be done in the future. That's great work.

8 MR. JOHNSON: Thank you, Butch.

9 PRESIDENT CARTER: Okay. Thank you.

10 MR. CHARNEY: I would add that the Joint Federal
11 Project is scheduled to be completed in 2014, both the
12 Bureau's work and the Corps's work. 2014 is our goal.

13 And with regards to the question about Folsom Dam
14 raise, that is a Corps and Board project. It does not
15 involve Reclamation, because the benefits that will accrue
16 are flood damage reduction only. And the Bureau of
17 Reclamation's guidelines are dam safety, that is, to solve
18 dam safety issues. So that will be moving forward with
19 the Corps.

20 And there is a draft ROD in place. It's just not
21 signed yet and not ready to come before this body.

22 Frank Piccola is the Chief of Planning for the
23 Corps.

24 MR. PICCOLA: Good morning again. I'd like to
25 join in on this lovefest for a moment. I won't take up

1 too much of your time because I know you have a full
2 agenda.

3 But from the Corps of Engineer's standpoint, I
4 agree with everything that's been said, and especially
5 what Mr. Hodgkins just said. And, that is, that once we
6 realized we had a bust on the Folsom mods because of costs
7 and construction problems, normally what we would have
8 done at the Corps of Engineers, we would have entered into
9 a general reevaluation report, takes four or five years at
10 best. We immediately heard from the State of California,
11 the congressional delegations, SAFCA, everybody up and
12 down the line, Bureau of Reclamation, said, "No, it can't
13 happen." So we put our heads together and we came up with
14 this about 18-month process, which, as Butch said, is just
15 unheard of from the Corps of Engineers. I won't speak for
16 the other agencies. And in that time we were able to do a
17 lot of engineering, got a lot of smart people together,
18 both here in California and at the Technical Service
19 Center for the Bureau of Reclamation out of Denver. Did a
20 lot of great engineering, and we were able to come up with
21 this project as an alternative to the Folsom mods project.

22 I would like to commend Mr. Charney on behalf of
23 the Board as your representative. He did a fantastic job,
24 hung in with us as tortuous as it was at times. I'm
25 really impressed with his slides. I wish I had those when

1 I was back in Washington. I had to brief the Assistant
2 Secretary of Army on this project. He had some great
3 slides that I admire. I might borrow them from him.

4 This is a really important project to everyone,
5 not only the federal government but the State of
6 California and the residents of the Sacramento area. This
7 is something a long time coming. It solves a lot of
8 problems, including dam safety and flood damage
9 reductions. Kind of the keystone to the flood damage
10 reduction system in this area. And we're very proud of
11 how we've gotten to this point. We have about a two-year
12 span now where our engineers will get back together again.
13 They met last week in Denver again, both the Bureau of
14 Reclamation and Corps of Engineers, to start looking at
15 the design refinements that are required to actually build
16 this thing.

17 So we're on a fast track. The schedule's
18 aggressive. We've gotten commitments from Washington on
19 our part for funding. And we think this is going to be
20 built on time, and we're all going to be very proud of
21 this happening. So I want to thank you for your support
22 in the past, and I hope that continues in the future.

23 Environmentally we -- the environmental document
24 was prepared by the Bureau of Reclamation. We signed the
25 ROD on May 3rd. The Assistant Secretary of the Army, John

1 Woodley, signed it on the 3rd of May. So for the flood
2 damage reduction part, the JFP project, we're all set on
3 the environmental side.

4 We do have, as was described to you, a draft of a
5 rod for the raise. The reason we didn't sign it is that
6 in our project we say it's a three and a half foot raise
7 and we're still doing some design refinements on that. So
8 before we sign that ROD we want to make sure we know what
9 we're talking about. But we're poised to do that very
10 soon.

11 So if you have any questions, I'd be happy to
12 answer them. Other than that, thank you again very much.

13 PRESIDENT CARTER: Any questions for Mr. Piccola?

14 Thank you very much for coming.

15 MR. CHARNEY: If there are no further questions
16 for me, I look forward to presenting to you again in July.

17 PRESIDENT CARTER: Great.

18 Thank you very much. Thank you, all. I'd like
19 to echo Butch's comments. It's been -- Mr. Buer's
20 comments that this is a landmark example of both
21 federal -- two federal agencies and several state agencies
22 and local partners working together to get something done
23 quickly and cost effectively, it's a model. Hopefully we
24 can continue to do duplicate it.

25 Thank you.

1 At this point we'll move to Item -- we have a
2 couple minutes before lunch time. Let's see if we can
3 knock out Item 9C.

4 Ms. Bronson.

5 (Thereupon an overhead presentation was
6 Presented as follows.)

7 MS. BRONSON: Good morning. And members of the
8 Board, President Carter, and General Manager Punia. I'm
9 Annalena Bronson. I'm an environmental scientist for the
10 Division of Flood Management working on flood projects.

11 As you may recall, you had certified an EIR for
12 this project, the American River Watershed Common
13 Features, the American River Features, the Mayhew Levee,
14 Sacramento County, California, a final environmental
15 impact report, back in November. And because the title is
16 quite a mouthful, I'm going to call it the Mayhew Levee
17 Project from now on.

18 --o0o--

19 MS. BRONSON: Since November, the staff for the
20 Corps, Board, and SAFCA have worked on detailed designs,
21 with the goal of getting a contract for construction this
22 year. And during this design process, we determined that
23 there were two additional features that needed to be added
24 to the contract that were not discussed in the original
25 final EIR.

1 --o0o--

2 MS. BRONSON: And these are a 13 times 72 foot
3 seepage berm at the site of three high-pressure 48-inch
4 diameter sewage lines that cross the existing levee near
5 the east end of the project --

6 --o0o--

7 MS. BRONSON: -- in the here area you can see the
8 circle there.

9 --o0o--

10 MS. BRONSON: We have discussed many ways of how
11 to provide flood protection for this portion. The seepage
12 berm is of course not feasible here. And we have -- or a
13 slurry wall. And the seepage berm is feasible. And
14 that's what we are proposing. And this picture will show
15 you where that would be, and it would extend into an empty
16 lot owned by the Sacramento County Sanitation District.
17 And with that addition to the levee project, it would not
18 prevent seepage, but it would prevent material being lost
19 from the levee and it would provide the level of
20 protection that is desired for this project.

21 --o0o--

22 MS. BRONSON: And in addition we have decided to
23 add to the contract, as in an option, a 150-foot-long
24 slurry wall extension across the Mayhew drain. The Mayhew
25 drain is at the western-most portion of the levee. There

1 will be a slurry wall through the entire levee. And this
2 addition is just to go the additional 150 feet across the
3 drain.

4 --o0o--

5 MS. BRONSON: Next year we are going to construct
6 a closure structure at this drain so in high water -- here
7 is a picture of the drain -- so that water from the
8 American River can't go up this drain and then cause
9 flooding. We would have a separate environmental document
10 for your review later this year for that closure
11 structure.

12 But in order to save money and time when we have
13 a slurry wall, a contractor out on the project -- it's
14 cheaper and more efficient to have him go the extra 150
15 feet rather than getting back there next year when we do
16 the closure structure.

17 --o0o--

18 MS. BRONSON: So these are the two items in the
19 addendum. I regret that you didn't get it as soon as we
20 had wished. There are many levels of review for
21 everything we do. And all I can say is that I'm sorry you
22 didn't get it earlier.

23 I would like to ask the Board to approve
24 Resolution No. 07-04; that The Reclamation Board of the
25 State of California has considered the addendum to the

1 American River Watershed Common Features, Lower American
2 River Features, Mayhew Levee Environmental -- Final
3 Environmental Impact Report.

4 --o0o--

5 MS. BRONSON: And that the Board finds that the
6 conditions for adopting an addendum have been met as
7 discussed in the addendum; adopts the addendum and
8 approves the extension of the slurry wall and the seepage
9 berm.

10 SECRETARY DOHERTY: Has the staff reviewed this
11 request?

12 MS. BRONSON: Yes, we have -- I know we have had
13 legal review and it's been reviewed.

14 CHIEF ENGINEER BRADLEY: Yes, we have reviewed
15 this.

16 SECRETARY DOHERTY: And no problems with either
17 solution?

18 CHIEF ENGINEER BRADLEY: No. There's no way to
19 put the slurry wall in where these three high-pressure
20 pipes are. That's the reason for the seepage berm.

21 SECRETARY DOHERTY: All right.

22 PRESIDENT CARTER: This project might just go
23 before the Environmental Review Committee?

24 CHIEF ENGINEER BRADLEY: This is not a permit.
25 This a Board project. Environmental Review Committee only

1 applies to Board encroachment permits or applications.

2 PRESIDENT CARTER: Okay.

3 SECRETARY DOHERTY: Well, I'd like to make a
4 motion that we approve Resolution 07-04.

5 PRESIDENT CARTER: We have a motion.

6 Is there a second?

7 VICE-PRESIDENT HODGKINS: I'll second.

8 PRESIDENT CARTER: Okay. Any further discussion?

9 Okay. Mr. Punia, would you call the roll please.

10 GENERAL MANAGER PUNIA: Vice-President Butch
11 Hodgkins?

12 VICE-PRESIDENT HODGKINS: Aye.

13 GENERAL MANAGER PUNIA: Board Member Teri Rie?

14 BOARD MEMBER RIE: Yes.

15 GENERAL MANAGER PUNIA: Board Member Lady Bug?

16 SECRETARY DOHERTY: Aye.

17 GENERAL MANAGER PUNIA: President Ben Carter?

18 PRESIDENT CARTER: Aye.

19 Motion carries.

20 MS. BRONSON: Thank you very much.

21 PRESIDENT CARTER: Thank you.

22 At this time we'll recess for lunch. We will
23 reconvene here in one hour. So 1 o'clock.

24 Thank you very much.

25 (Thereupon a lunch break was taken.)

1 AFTERNOON SESSION

2 PRESIDENT CARTER: Good afternoon, ladies and
3 gentlemen. This is the State Reclamation Board.

4 We are on item 10 at this point, the Designated
5 Floodway - Mokelumne River Designated Floodway.

6 Consider modification of the right, or north,
7 bank boundary of the Mokelumne River Designated Floodway
8 in San Joaquin County at 2221 Bender Road, Acampo,
9 California.

10 Mr. Bradley.

11 (Thereupon an overhead presentation was
12 Presented as follows.)

13 CHIEF ENGINEER BRADLEY: Do we need to wait for
14 Ms. Rie?

15 PRESIDENT CARTER: Ms. Rie?

16 CHIEF ENGINEER BRADLEY: Yeah. We don't have a
17 quorum.

18 PRESIDENT CARTER: We will need to wait for her
19 to make a decision. But I'd go ahead and proceed with
20 your staff report, please.

21 CHIEF ENGINEER BRADLEY: For the record, Steve
22 Bradley, Chief Engineer of The Reclamation Board.

23 We have before us a request to modify the
24 Mokelumne River Designated Floodway, the boundary of it.

25 Before I get started I'd like to point out that

1 on the agenda item that I sent out, the staff report, the
2 last map, somehow I drug the overlay that showed the
3 property and the house, and it actually moved a little bit
4 on me. And it shows the house being within the FEMA
5 floodway. That is not correct, and I will cover that in
6 my presentation and show you exactly where it is. But I
7 wanted to correct that so that there was no misconception.
8 It's the very last page of the staff report.

9 --o0o--

10 CHIEF ENGINEER BRADLEY: Just to get you oriented
11 as to where we're talking about. It's on the south of
12 Sacramento. It's north of Stockton. Stockton's down
13 here. Lodi, Highway 99 run along here. Galt. The
14 project site is over hear on the Mokelumne River, which
15 comes out of Comanche Dam, goes all the way down towards
16 the Delta.

17 The designated floodway basically runs from where
18 the Mokelumne River joins the Cosumnes River all the way
19 up to Comanche Dam. And we're going to talk about this
20 very small piece in here.

21 --o0o--

22 CHIEF ENGINEER BRADLEY: This is kind of a blowup
23 of it. Again, 99. We have Peltier Road along here.
24 Bender Road, which is the address. And the property we're
25 going to talk about is bounded by Peltier Road, Bender

1 Road and the Mokelumne River.

2 --o0o--

3 CHIEF ENGINEER BRADLEY: This is an overhead view
4 of the property. Again, Peltier Road, Bender Road.
5 Taddei Road, which is sort of south. But the boundary
6 does not run over to the Mokelumne River. More or less
7 stops at that point.

8 This is the property that's owned by Dr. West,
9 who has made this request.

10 Reclamation Board has a designated floodway
11 boundary that runs on the right bank along this area as
12 shown by the red line. That's been there since 1975.
13 That's the boundary that was established in 1975.

14 FEMA in 1988 did a new study in this area and
15 established a different floodway boundary for their
16 floodway. And it's shown by this blue line here. It's
17 sort of coincident down in this area and again up in this
18 area. But it is not coincident in the area on most of Dr.
19 West's property.

20 --o0o--

21 CHIEF ENGINEER BRADLEY: Part of this is what he
22 wants to do is locate a house on this property. He bought
23 the property and wants to place a house on it. The
24 house -- the proposed location for the house is within The
25 Reclamation Board's floodway boundary but outside of the

1 FEMA boundary. There isn't a lot of property left in
2 order to -- for which to put a house on. This road
3 actually has a fair amount of traffic. I mean it looks
4 pretty rural, but it does have a fair amount of traffic on
5 it.

6 There is an existing house on the property down
7 here that I believe he proposes to use for his in-laws
8 that the floodway boundary actually went around.

9 --o0o--

10 CHIEF ENGINEER BRADLEY: This is kind of a view
11 looking due north. This is Bender Road here. In the back
12 where the stop sign is is Peltier Road. So you're looking
13 cross as -- the Mokelumne River is over here on the left.
14 And the house is proposed to go pretty much right about
15 where this pile of vineyard debris is going to be -- is
16 located. It's in this area here, kind of facing to the
17 river.

18 --o0o--

19 CHIEF ENGINEER BRADLEY: The Board's
20 designated -- or authority to designate floodways is
21 actually specified in the Water Code in Section 8609. It
22 says the Board may designate floodways throughout the
23 Sacramento and San Joaquin Rivers drainage to control
24 encroachments in, and to preserve the flow regimens of,
25 floodways for the purpose of protecting public

1 improvements, lives, land-use values, and improvements
2 created in reliance upon historical flooding patterns.

3 This is kind of non-structural flood
4 control -- or a flood protection measure.

5 --o0o--

6 CHIEF ENGINEER BRADLEY: The authority to modify
7 these lines once adopted is in the Board's regulations,
8 which has a section in Article 5 that actually deals with
9 designate floodways and defines the process of going
10 through and having to adopt it. It also allows for the
11 Board to make minor adjustments to these.

12 It says: "If, after the adoption of the
13 designated floodway and floodway encroachment lines, the
14 Board determines that conditions have changed sufficiently
15 to necessitate altering the lines, the Board may, at any
16 regularly scheduled noticed meeting" -- "regularly noticed
17 meeting, make modifications to the designated floodway as
18 it deems to be appropriate."

19 So you do have the authority to modify, make
20 minor modifications to this floodway.

21 --o0o--

22 CHIEF ENGINEER BRADLEY: The applicant requested
23 this. They do have that option. They can request of the
24 Board to consider modifying the floodway. Board staff has
25 looked at it. This is the reasons that were provided in

1 their request to modify it.

2 The FEMA study is more recent than the Board
3 study. The FEMA study was completed in 1988 and the Board
4 study was done in 1975. That's 13 years. It's a little
5 bit newer.

6 The FEMA flow is much greater than the Board
7 flow. The Board flow was I believe 8700, 8600, something
8 like that. And the FEMA flow was 15,400. So it's
9 about -- not quite double, but significantly larger.

10 No field verification for either study was made.
11 That means people didn't go out there and actually survey
12 the channels and do topographic mapping. It looks like it
13 was done off existing mapping.

14 Recent survey done by the representatives for Mr.
15 West indicates the residence will be above what FEMA has
16 defined the flood elevation to be. And the proposed
17 elevation of the finished floor of the house is 38 feet.
18 That is 3.8 feet above the FEMA 100-year elevation and .2
19 feet above the FEMA 500-year flood elevation. So the
20 house is out of the general flood area of the FEMA map.

21 --o0o--

22 CHIEF ENGINEER BRADLEY: Reasons not to modify
23 this. The Board staff -- one thing you're doing if you
24 notice on that is that the floodway would be much smaller
25 with the FEMA mapping than it is under the Board's

1 existing designated boundary. So you would be decreasing
2 the floodway and any factor of safety that came along with
3 that. Right or wrong, it is a wider area. And so if you
4 do approve this, you would be decreasing the width of the
5 designated floodway.

6 FEMA study, although it is more recent than the
7 Board's, still really is not up to date. Their data
8 really went through about 1985. So you didn't have the
9 big floods that occurred in '86 and then specifically the
10 1997 flood that was fairly large in the San Joaquin
11 Valley. So the hydrology even though it's more current
12 than the Board's, it's still not the latest word on what
13 the actual 100-year flow would be as of today's date.

14 This area along the Mokelumne River between Galt
15 and Lodi is experiencing urbanization. It used to be all
16 agricultural. But there's quite a few what I would call
17 rural -- semi-rural agricultural areas. Urban farms, you
18 may want to call them. Small acreages that have been
19 turned into primarily urban residences with some rural
20 property around it, but they're not primarily agricultural
21 properties.

22 Then, finally, there's significant staff work
23 involved with making a modification of the floodway.
24 These are a legal document. And as such, we provide them
25 to the counties. They have to be approved, signed. The

1 Board will have to approve the change. They can do that
2 today. And then the Board staff will make the
3 modifications on the floodways, and then send them to the
4 county. But there's a significant amount of time that
5 does this.

6 We have not done a floodway modification since
7 I've been Chief Engineer. I believe that several were
8 done previous under Mr. Pineda. When he was Chief
9 Engineer there were several modifications made. We have
10 not done one since I've been here.

11 --o0o--

12 CHIEF ENGINEER BRADLEY: With that, the staff
13 recommendation for this is that the staff recommends
14 denial of the request to modify the boundary of the right
15 bank of the Mokelumne River Designated Floodway, because
16 the floodplain area of the designated floodway would be
17 reduced. Any excess protection we have is probably not
18 excessive. Like I said, the floodway was done in '75.
19 Even though FEMA redesignated in 1988, there's some
20 significant data that has not been included in the
21 analysis that may lead to a larger flow.

22 The area out there once you reach the bank of
23 about where the house is located would be is fairly flat.
24 I mean that whole area is flat. If you did have a large
25 flood, a lot of area would be flooded, not super deep, but

1 wide areas of shallow wide-spread flooding.

2 With that, I believe I'll turn it over to the --
3 unless there's any questions right now for me, I'll turn
4 it over to the applicant's representative.

5 SECRETARY DOHERTY: I have one question.

6 Could you -- and I think you had a slide of it --
7 show me outlines of the property. I know it's bounded by
8 a road. But where on the bank side is the boundary?

9 Oh, okay.

10 So the yellow line is his boundary?

11 CHIEF ENGINEER BRADLEY: That's his property
12 boundary. It goes -- I'm not -- you know, I know it's
13 bounded by Peltier Road and Bender Road and it comes right
14 down here to about Taddei Road. I didn't know exactly
15 where it was in along the waterway. Whether it's along
16 the bank or whether it's middle of the river, it's -- I
17 don't have that data.

18 SECRETARY DOHERTY: All of the 15 acres is within
19 that red dotted line with the exception of that little
20 corner up there?

21 CHIEF ENGINEER BRADLEY: And this area down here.

22 SECRETARY DOHERTY: Oh, okay.

23 CHIEF ENGINEER BRADLEY: The existing house is
24 not within the floodway. It looks like that, you know,
25 whenever they drew the floodway they probably made sure

1 that was an existing house, been around longer. They
2 probably went around it. And if there'd been a house
3 here, they may have considered that. But there wasn't.
4 They drew the boundary out here. And so it didn't leave a
5 lot of property available to place a house. I can say
6 that.

7 And the area out through here is fairly level.
8 And you can see that here. You can see that it's kind of
9 rising with the -- you know, kind of comes up to here and
10 then it's pretty level across this part. But, you know,
11 it drops off a little bit more this way when you're
12 heading to the river. Then of course when you get over
13 here to the bank it drops off significantly into the
14 Mokelumne River.

15 Any other questions?

16 PRESIDENT CARTER: Any other questions for Mr.
17 Bradley?

18 Was it ever a consideration to, instead of asking
19 for a modification in the designated floodway boundary, to
20 ask for a variance to build inside the floodway?

21 CHIEF ENGINEER BRADLEY: They did. They actually
22 have a permit -- not a permit. They have an application
23 before the Board. We've had several meetings with them.
24 And Board staff has been very firm in saying they would
25 not -- they would take a very difficult -- or a very hard

1 view of -- or a very strong view of building a house
2 within the existing floodway. But if they're denied here,
3 I suspect they will proceed with that option.

4 It was discussed that -- I said, "You do have
5 reasons that you could present for modifying the
6 boundary," even though staff will not recommend it and
7 that they could take that option. If you do modify the
8 boundary, then they would not need a variance and actually
9 do not need a permit to build the house. It would be
10 outside the Board's designated floodway.

11 BOARD MEMBER RIE: Can they get an encroachment
12 permit to build within the floodway?

13 CHIEF ENGINEER BRADLEY: That's what I'm saying.
14 You have -- they've applied for -- they have an
15 application. They decided they'd try to ask for a
16 modification to the floodway boundary first before they'd
17 proceeded with that, because staff takes a pretty strong
18 view of not building residences within a floodway. That's
19 the reason that -- the designated floodway there is to
20 keep urban -- residential development out of it, it's main
21 historic flow patterns. And this has been an area where
22 we get a lot of requests for this kind of thing, and staff
23 has always denied it.

24 PRESIDENT CARTER: Is this an area where FEMA
25 is -- FEMA's doing a lot of remapping. Is this an area

1 where they are considering remapping their line?

2 CHIEF ENGINEER BRADLEY: I mean I don't know.

3 You could ask Ricardo Pineda when he's here this

4 afternoon, you know. But --

5 PRESIDENT CARTER: Actually Ricardo's here?

6 CHIEF ENGINEER BRADLEY: Ricardo's here, yeah.

7 And he may know. I don't know if FEMA's remapping

8 everything.

9 PRESIDENT CARTER: Okay.

10 MR. PINEDA: Good afternoon, President Carter and

11 members of the Board. My name is, for the record, Ricardo

12 Pineda, Chief of the Floodplain Management Branch. We

13 were making a presentation on floodplain mapping and levee

14 certification at the California State Association of

15 Counties' meeting at 11th and K. So that's why I'm late

16 for coming to the meeting.

17 The question is: Is FEMA remapping this area?

18 FEMA is modernizing the maps throughout the nation,

19 including this area. But they're essentially just doing a

20 digital GIS conversion of the maps. So they're not doing

21 a new engineering analysis.

22 I don't have all the background on this, but the

23 question -- I think one of the questions, and maybe

24 Steve's already covered it: Is this area map into the

25 FEMA 100-year floodplain or is it mapped out of the FEMA

1 100-year floodplain? And how does the FEMA 100-year
2 floodplain map compare to our designated floodway map?
3 And usually in my experience with the Board when I was in
4 Steve's position, we confined the FEMA Flood Information
5 Studies, those are called the FIS, which is the technical
6 backup to how they developed the boundaries. And usually
7 there is more engineering data in those reports than the
8 engineering data that the designated floodways were -- on
9 which the designated floodways were developed. So I think
10 comparing the two maps would be a very good thing. And if
11 it falls outside of the FEMA floodplain map, the existing
12 one that's being converted to digital GIS format, then
13 there's room for discussion. Or at least that's how we
14 would do -- that's how I took care of it when I was in
15 Steve's position. We kind of compared the two, where is
16 it the engineering data supports the best, most accurate
17 line?

18 PRESIDENT CARTER: Thank you.

19 Mr. Bradley, go ahead -- or, Mr. Hodgkins, do you
20 have a question for Mr. Bradley?

21 VICE-PRESIDENT HODGKINS: Steve, do you or
22 Ricardo know what the '86 and '97 flows were at any point
23 in Mokelumne upstream of here or at this location?

24 CHIEF ENGINEER BRADLEY: I actually don't. And
25 I've never worked that much on the Mokelumne River. I did

1 a lot of flood hydrology, but never worked much on the
2 east side streams, which are the Calaveras and Cosumnes
3 and Mokelumne. I don't really know what that flow was.

4 VICE-PRESIDENT HODGKINS: Okay. Thank you.

5 PRESIDENT CARTER: Okay. So, Mr. Bradley, do you
6 have more?

7 CHIEF ENGINEER BRADLEY: I do not. I was going
8 to turn it over to the applicant to make his presentation.

9 PRESIDENT CARTER: Okay. Very good.

10 MR. PETERSON: Good afternoon, Mr. President,
11 Board members. My name is Dave Peterson. I'm a licensed
12 civil engineer in California. I've been hired by Dr. West
13 and his wife to address this issue on their behalf. They
14 are in the audience today to hear this issue.

15 We prepared a little presentation here.

16 (Thereupon an overhead presentation was
17 Presented as follows.)

18 MR. PETERSON: All right. This is, I guess --
19 this item for your consideration today is to adjust the
20 floodway boundary line. We did look at the encroachment
21 permit in advance. But when it looked like that was not
22 going to meet staff's approval, we decided to switch.
23 Really what needs to be done from a technical standpoint,
24 this makes a lot more sense anyway.

25 --o0o--

1 MR. PETERSON: Before you -- Dr. Steve West
2 wishes to construct a new home on his 15-acre property
3 along the Mokelumne river. This is near Acampo,
4 California. The site is within the designated floodway.

5 The Rec Board designated floodway and FEMA
6 floodplain boundaries do differ. FEMA is a newer and more
7 detailed estimate. And the request today is conform your
8 designated floodway to the FEMA floodplain only across his
9 property.

10 --o0o--

11 MR. PETERSON: Site characteristics. There is
12 no -- this is off along the right bank of the stream
13 looking downstream. There is no levee along that bank.
14 The right bank is higher than the left bank. The overbank
15 is very flat, even beyond Bender Road. I'll show you some
16 photographs.

17 There's no confinement of the over -- of the
18 overbank system.

19 The house would be located outside of the FEMA
20 100-year floodplain, and yet would be elevated above the
21 500-year floodplain.

22 --o0o--

23 MR. PETERSON: So this is a single-family house
24 planted fairly centrally along the property.

25 This map shows the general site. It shows the

1 topographic features on there in white. Elevation 35 and
2 then it drops off toward the river in this location.

3 If you look on this map, kind of the historic
4 floodway boundary, you can see down here the shadow
5 portion. It looks like, you know, historically there's a
6 corridor that follows about the line that my pointer's
7 making, like this, and then along the left bank down over
8 here. So generally a floodway along that line would make
9 a certain amount of sense.

10 --o0o--

11 MR. PETERSON: I'll build this thing here. The
12 designated floodway as it stands today has bulge across
13 this property. It goes around his existing residence and
14 then bulges out to Bender Road and then across. And so,
15 when you look at the FEMA maps, they were calculated, as
16 Ricardo said, using more recent and better data. They
17 pulled that line in substantially moving downstream.

18 Incidentally, the flood goes from the bottom of
19 the photograph to the top.

20 So what we're proposing today is that the
21 designated floodway across his property be relocated to
22 the yellow line there right along the FEMA boundary. And
23 in this case we would not be computing any new lines.
24 We'd basically be just conforming it to the existing FEMA
25 floodplain boundary map.

1 --o0o--

2 MR. PETERSON: This photo again -- I won't go
3 into this, except to say that if you go east of Bender
4 Road, you can look out past this tree. It's flat. And
5 the overbank, across Bender Road, and off into the
6 distance. For there to build up any significant water on
7 this overbank is probably -- it's not probable.

8 --o0o--

9 MR. PETERSON: A little bit closer. The pile of
10 debris is where the house would be located. This is
11 looking northwest. Down here in the northwest portion of
12 the property it drops off to the river a little bit.

13 --o0o--

14 MR. PETERSON: One more photograph.

15 --o0o--

16 MR. PETERSON: Okay. Some facts and figures
17 here. The design flow for The Rec Board designated
18 floodway is 8500 cfs. The FEMA study used 15,400, almost
19 twice the flow. Map dates: FEMA is quite a bit newer.
20 And evidently both have detailed studies. However, as
21 Ricardo noted, that FEMA studies are generally more
22 detailed than The Rec Board designated floodway studies.

23 And the boundaries of the two maps, the FEMA maps
24 better fit the field conditions. That bulge in the
25 designated floodway map doesn't really jive with anything

1 on the ground.

2 --o0o--

3 MR. PETERSON: We look at hydraulics. The
4 100-year flood at this location in the most recent FEMA
5 study is 15,400 cfs, with a water surface elevation of
6 34.2. Five hundred year, 35,200 for the water surface
7 elevation of 37.8. So roughly 3.6 feet higher for the
8 500-year.

9 Dr. West is proposing to locate his house
10 footprint outside of the 100-year floodplain, with a
11 finished floor at 38, which would be two-tenths higher
12 than a 100-year flood -- or the 500-year flood, to account
13 for those future changes in hydrology estimates and that
14 sort of thing.

15 And I did look up the 1997 flood peak. It was
16 5,070 cfs. I have a printout from him. I'm sorry I don't
17 have a transparency of this. But all of the flood peaks
18 since Comanche Reservoir was built back in '64 have been
19 right around 5,000 cfs or less. Certainly less than 6,000
20 cfs.

21 Prior to that, the flood of record was in 1950 at
22 27,000 cfs. And his existing residence has been in place
23 since 1916. They took a measurement at the site during
24 that flood -- or shortly after the flood. The elevation
25 of the water surface for 27,000 was at 37.1. So it was

1 still below the finished floor that we're proposing
2 downstream farther from the bank.

3 --o0o--

4 MR. PETERSON: So what we're requesting today is
5 to conform The Rec Board designated floodway to the FEMA
6 floodplain boundary just across the property.

7 --o0o--

8 MR. PETERSON: With that, I'll open it up for
9 questions.

10 SECRETARY DOHERTY: Well, you said that the FEMA
11 map was more current, and yet it showed that red line
12 going right down the center of the channel. Now, that
13 seems to me it would be in the floodway.

14 MR. PETERSON: Yeah, the --

15 SECRETARY DOHERTY: Right there. FEMA is going
16 right down the middle of the floodway.

17 MR. PETERSON: It's actually the -- there's a
18 bunch of trees here, and the bank is to the left of those
19 trees. What happens is there's a bridge here at Peltier
20 road and the water does go through the bridge and -- for
21 the most part. Some of it runs over the bridge, and so
22 you see flood water spilling over the bridge along a
23 section of it. But it necks down right prior to the
24 bridge.

25 SECRETARY DOHERTY: But the point that I'm trying

1 to make is if FEMA is more accurate than the Reclamation's
2 originally designated floodway, that would be kind of
3 scary to me, if that's supposed to be accurate.

4 PRESIDENT CARTER: Are you talking about the left
5 bank or the right bank?

6 SECRETARY DOHERTY: Right here. I'm talking
7 about the left bank. Not because it's over there, but
8 because he said FEMA is more current and it's better done.
9 And yet it shows it went right down the middle. Then I
10 wouldn't think that that would be better done.

11 MR. PETERSON: Yeah, all I can say is it is up on
12 the bank. This bank is still elevated quite a bit from
13 the bottom of the river. It's perhaps 20 feet from the
14 top of the bank to the bottom. I haven't measured it.
15 But the river is incised through here quite a bit. And
16 that would account for why this line is pulled in so much.

17 PRESIDENT CARTER: And you said the left bank was
18 not -- did not have a bank or a levee or anything on that
19 side?

20 MR. PETERSON: No, that bank does have a levee,
21 and it's out right along the designated floodway line.
22 And it's a -- I don't know if it's maintained or not.
23 But, anyway, there's a small levee on the left bank out
24 here. But the right bank has no levee.

25 SECRETARY DOHERTY: Is there a levee district in

1 the area?

2 MR. PETERSON: No, there is no reclamation
3 district. If anybody maintains it, it's the San Joaquin
4 County Flood Control and Water Conservation District.
5 Don't know. But that's the left bank, and we weren't
6 really researching the left bank.

7 PRESIDENT CARTER: Okay.

8 MR. PETERSON: And it really -- if this area down
9 by Peltier Road is a concern to you, that isn't the area
10 of floodway boundary that is of concern to us. So --

11 SECRETARY DOHERTY: No, no, that wasn't my
12 concern. The area is not my concern.

13 You made the point that the FEMA map was better,
14 more recent. And I'm saying if it takes you right down
15 the middle of the channel, I don't know that that's
16 better, whether it's left or right. So then maybe that
17 means on the right-hand side they're out of alignment
18 also. That's --

19 PRESIDENT CARTER: It just speaks to the veracity
20 of the FEMA's line as to whether or not that really --
21 their data is accurate if they're saying that the
22 floodplain is inside the levee.

23 MR. PETERSON: Oh. Well, okay. There is no
24 levee over here. This is a row of trees. It may look
25 like a levee on the overhead. But, you know, it's a row

1 of very large trees. And so the bank is actually to the
2 channel side of the -- left of those trees. So these sit
3 up on the overbank.

4 SECRETARY DOHERTY: Do you have any history at
5 all of that area of when it flooded last?

6 MR. PETERSON: I would have to defer to Dr. West
7 for that. But, no, I don't.

8 PRESIDENT CARTER: Dr. West, do you have any --

9 DR. WEST: No, that would be like --

10 PRESIDENT CARTER: Could you please come to the
11 podium please.

12 DR. WEST: It flooded last year and --

13 PRESIDENT CARTER: I'm sorry Could you introduce
14 yourself for the record.

15 DR. WEST: I'm Steve West. I'm the property
16 owner.

17 PRESIDENT CARTER: Thank you.

18 DR. WEST: You asked me a question, if I had a
19 map of the last time it flooded?

20 SECRETARY DOHERTY: If you had any knowledge of
21 the last time it flooded.

22 DR. WEST: It flooded -- 5,000 cfs is considered
23 a flood stage at Comanche. And it was about 5,000 last
24 year and then again in 1997. And I marked that high water
25 there. And at 5,000 it's around six feet below the grade

1 of where I want to put the home. And it's inside of the
2 bank. It's not overflowing.

3 PRESIDENT CARTER: Any other questions for the
4 applicant?

5 Thank you.

6 MR. PETERSON: Thank you. We appreciate it.

7 PRESIDENT CARTER: So we have our request and a
8 recommendation from staff.

9 What's the Board's pleasure?

10 CHIEF ENGINEER BRADLEY: I think somebody wants
11 to speak.

12 PRESIDENT CARTER: Oh, I'm sorry.

13 MR. GIOTTONINI: I'm Jon Giottonini, the
14 contractor --

15 PRESIDENT CARTER: Would you go ahead and give
16 your card to Lorraine please.

17 Thank you.

18 MR. GIOTTONINI: You know, I think you asked if
19 historically that property had flooded or not flooded for
20 the building site. Dr. West bought this property in 1993,
21 and got to know his next door neighbor, which Mr. Taddei
22 grew up in that home -- his family built that home and he
23 grew up in it and lived next door or in that home until he
24 went into a restroom in 2001. The existing home has never
25 flooded. The land up on top of the bank there has never

1 flooded and the -- well, since 1915 or the time he could
2 recollect.

3 He did have an aerial photo of some floods we had
4 in like '55 or '50 that Steve had looked at when he had
5 bought this and befriended Mr. Taddei. And it showed that
6 the site was high and dry. And, you know -- and I brought
7 some data showing these different flows of the San Joaquin
8 River that came off of the reclamation site.

9 And '97 was a huge year. But because of
10 Comanche -- since Comanche's been built there's never been
11 more than 6,000 cubic feet per second coming down that
12 river. They've controlled the flow extremely well.

13 And even at 27,000, the basement of the old home
14 was high and dry and -- you know, I mean they may have
15 flooded around that area, but it certainly didn't flood on
16 this building site or anywhere near this building site.

17 And this was something that we spent about three
18 years drawing these plans. We tried a couple different
19 architects. We've been down to the flood control agency.
20 We've been trying to figure out how close we could get to
21 the river, get a view of the river. And, you know, we
22 knew that the property was well above the 100-year
23 floodplain. And we designed it so that under any
24 circumstances, even a 500-year floodplain, chances are
25 Lodi would go under, Woodbridge would go under, but this

1 property probably would be high and dry also. You know, I
2 mean it's one of higher pieces of ground in the area. And
3 that's why it's a bank, not a levee on that side. The
4 other side of the river's quite a bit lower.

5 And, you know, I wish Mr. Taddei were alive. I'm
6 sure he would come over here and tell you that
7 historically it has never flooded.

8 But the thing I came up here to address is the
9 fact that Dr. West has spent over a hundred thousand
10 dollars drawing plans, getting the building permit was
11 issued, before we found out the next day after issuing the
12 permit and paying the taxes that this map even existed,
13 that he couldn't build there.

14 And the only way he can build on this property
15 and have a decent place to have is to tear down the
16 existing home, which was meant to put his father-in-law
17 in, who's 80 years old, allow him to have some
18 independence in his old age. And then he had to tear down
19 his barn and relocate it out to that far corner of the
20 property, which is far away from the house and stuff. And
21 we were trying to keep this as a family unit. This is 15
22 acres. It's zone was 15 acres. You're not going to deal
23 with urban sprawl, that they allow an in-law quarters with
24 a home. This is something Dr. West has saved up for and
25 actually financed -- borrowed the money to build this when

1 he needed to finish the project before we ended up getting
2 shot down here.

3 And I feel like it's a bit of a taking of his
4 private property rights, because you have one map that
5 came out of the blue on us that doesn't conform what we
6 were told at the San Joaquin County Flood Control
7 Agencies. Because I know personally, I was down there
8 many times with them. And we were dealing with setbacks.
9 We had no idea we were going to get hit with this. And to
10 have this project come to a screeching halt -- and Steve's
11 a friend of mine. So whether or not he builds it or not,
12 what matters to me is -- I feel he's losing his land.
13 Now, it's cost him -- he'll lose the one home, he'll have
14 to rebuild another barn, he'll have to rent the place, in
15 order to build a home in a spot that's no different than
16 the other spot except it's a little closer to the
17 neighbor, you know. And it seems a waste after spending
18 200 grand remodeling that old farmhouse when he bought the
19 property and about 50,000 redoing the barn, insulating it
20 and doing some wiring and stuff. And to throw all that
21 away because somebody drew a map in 1975, that didn't come
22 out to the property, didn't shoot elevations.

23 And, you know -- and I think water doesn't flow
24 through elevations. I mean, you know, if the elevation
25 was high enough and FEMA says that's what the hundred-year

1 floodplain is, and we're at the 500-year on the finished
2 floor, I think we're being prudent where we're putting the
3 house.

4 So that's it.

5 BOARD MEMBER RIE: I have a question for all the
6 engineers, our engineers, the applicant's engineers.

7 Our regulations allow us to modify the floodways
8 if conditions have changed after these maps have been
9 drawn. So my question is -- we already heard that the
10 maps were drawn in 1975 by The Rec Board and then Comanche
11 Reservoir was built.

12 What year was Comanche Reservoir built and what
13 was the change in flow from 1975 to after Comanche was
14 built?

15 SECRETARY DOHERTY: Comanche was built in --

16 MR. GIOTTONINI: Comanche was built in '63.

17 BOARD MEMBER RIE: Okay. So nothing --

18 MR. GIOTTONINI: The changes in the map was
19 incorrect to start with.

20 BOARD MEMBER RIE: Do you want to elaborate? So
21 there is no change in the flows, but the maps appear to be
22 wrong?

23 MR. GIOTTONINI: Yeah.

24 CHIEF ENGINEER BRADLEY: Yeah, that's what
25 they're stating, is that there's no current data that's a

1 change. And you can consider that.

2 BOARD MEMBER RIE: Okay. So at the time the maps
3 were drawn, they were -- our maps were based on 15,000
4 something cfs.

5 CHIEF ENGINEER BRADLEY: No, ours are based on
6 8500 cfs.

7 BOARD MEMBER RIE: They were?

8 CHIEF ENGINEER BRADLEY: Yes. The FEMA flows are
9 based -- or FEMA 100 flow was based on 15,400.

10 BOARD MEMBER RIE: Okay. So FEMA's taking into
11 consideration almost twice as much flow but has a much
12 smaller flood area. So it appears there's a discrepancy
13 somewhere, either with our maps or the FEMA maps.

14 CHIEF ENGINEER BRADLEY: I wouldn't disagree with
15 that. There's a discrepancy. That's the reason the
16 boundaries are different.

17 BOARD MEMBER RIE: That seems like a valid reason
18 to relook at these maps to me.

19 CHIEF ENGINEER BRADLEY: I'm -- is that just a
20 statement or --

21 BOARD MEMBER RIE: Yeah, it was just a statement.

22 PRESIDENT CARTER: Are there any more questions
23 for staff or engineers?

24 Thank you.

25 So what's the Board's pleasure?

1 Do we have enough data to make a decision on
2 this? Do we want some more information? Can we make a
3 decision at this point?

4 SECRETARY DOHERTY: We've got the right to
5 delineate an aerial mosaic or map the proposed designated
6 floodway and the floodway encroachment lines.

7 PRESIDENT CARTER: Perhaps we ought to ask --

8 SECRETARY DOHERTY: I think we ought to.

9 PRESIDENT CARTER: -- Legal then to comment on
10 that.

11 STAFF COUNSEL FINCH: Can I defer to Ward Tabor?

12 PRESIDENT CARTER: Yes, you may.

13 STAFF COUNSEL FINCH: Okay. Thank you.

14 MR. TABOR: Good afternoon, President Carter and
15 members of the Board. I apologize for my informal attire.
16 I was called in to duty late in the morning and wasn't
17 prepared to be seen too much in public today.

18 But the question you're asking is: Does the
19 Board have enough information to make a decision? You
20 know, I think it's a tough call for you, because we don't
21 know which of these studies was better, which one was more
22 accurate. We certainly know that one was later in time.
23 Doesn't mean it was better or more detailed or less
24 detailed.

25 We do know that there's a couple events since

1 then that may not have affected the actual flows in this
2 area, but would affect our understanding of the hydrology
3 of the Mokelumne River, that we see larger events than we
4 saw from an historic hydrograph earlier on. So we know
5 that, and you've seen in your global warming presentations
6 in the past that we see -- we've seen larger events in the
7 second half of this past century. And that we believe --
8 many people believe that there's going to be -- continue
9 to be larger events in the future.

10 If the Board is interested in looking more into
11 adopting a change in the floodway, it would seem to me it
12 needs more information before you're ready to make that
13 decision, because you want to make sure that you're making
14 a right decision.

15 In the past, the Board has modified floodway
16 lines in the past. And typically it's for requests to
17 somebody who wants to build their house where they can see
18 the river. And the Board has been very strict with
19 applicants for this kind of proposal, so that you are
20 absolutely assured that nobody is building a house where
21 they're going to be subject to any kind of a flood risk.
22 And I'm not aware of any situation where the Board has
23 allowed a house within a designated floodway.

24 I'm not sure if I've addressed your question.
25 But I'd be happy to try to address something more specific

1 if you can direct one towards me.

2 PRESIDENT CARTER: Didn't -- maybe it's more of a
3 question for Mr. Bradley. But didn't the Board have a
4 request, you know, late last year or early this year from
5 the Giesbrechts, who were up by Butte City? Isn't that
6 the -- part of the Butte bypass or --

7 CHIEF ENGINEER BRADLEY: That's correct, there
8 was. The Butte Basin was part of the overall plan of
9 flood control. There's no flowage easements out there.

10 PRESIDENT CARTER: Is that designated floodway
11 out there?

12 CHIEF ENGINEER BRADLEY: It is not designated
13 floodway. That is part of the adopted plan of flood
14 control. But there's -- it is not a designated floodway.
15 Designated floodway is a special program. We have about
16 1300 miles of designated floodway. In fact, there's one
17 on the American River above Mayhew where the Mayhew levees
18 end. From there all the way to Nimbus Dam is a designated
19 floodway. There's no levees out there, but there's a
20 designated floodway in that reach.

21 There's quite a few above -- the Sacramento River
22 above where the levees end, basically at the Butte Basin
23 or near Hamilton City on the river that area all the way
24 up to Red Bluff is designated floodway also. So
25 there's -- we have designated floodways on most of the

1 major streams in the valley above where the levees are.

2 PRESIDENT CARTER: All right.

3 BOARD MEMBER RIE: Did the applicant submit any
4 studies to verify their position?

5 CHIEF ENGINEER BRADLEY: No, this is based on
6 FEMA, which used -- I presume used probably at this time
7 HEC II.

8 And according to the information I have, which is
9 pretty sketchy on the designated floodway program, they
10 also did a -- the Board staff did a detailed study for the
11 reach of the Mokelumne west of Highway 99. So from 99 all
12 the way down to where it meets the Cosumnes River it did a
13 detailed study. Above 99 to Comanche Dam it was more of
14 an approximate study. So this reach appears to have had
15 more detailed studies in profiles of probably HEC II or a
16 predecessor of HEC II.

17 BOARD MEMBER RIE: I'd like to see the staff and
18 perhaps the applicant come back with some more detailed
19 studies to justify the move of the designated floodway.
20 Because we don't have any information other than the FEMA
21 map, which, you know, may not be a hundred percent
22 accurate. We just don't know.

23 CHIEF ENGINEER BRADLEY: That would be the
24 applicant's responsibility.

25 BOARD MEMBER RIE: Okay.

1 SECRETARY DOHERTY: Well, I make a motion at this
2 time that we deny the application to build in the
3 floodway.

4 PRESIDENT CARTER: Okay. We have a motion.
5 Is there a second?

6 VICE-PRESIDENT HODGKINS: I'll second.

7 PRESIDENT CARTER: Okay. We have a motion and a
8 second.

9 Any discussion on the motion?

10 VICE-PRESIDENT HODGKINS: This doesn't preclude
11 the applicant from doing more studies. It just sort of
12 takes you out of limbo, today at least, as far as the
13 Board's position. I mean I agree that -- a question for
14 me here is -- every time we let a house get close to a
15 river, we end up being sorry for that. I won't say every
16 time, but a lot of times in the future. And given the
17 lack of -- and I'm not sure, I think it's the applicant's
18 responsibility -- but the lack of any data to be confident
19 that this was not going to be problematic later on, I have
20 to agree. I don't think we should approve this.

21 PRESIDENT CARTER: Any --

22 MR. TABOR: If I might -- based on my
23 understanding of Member Doherty's motion, her motion was
24 to deny permission to build in the floodway. But what's
25 before you today is a proposal to move the designated

1 floodway line so as to avoid the need for a permit from
2 the Board. So you may reconsider your motion as a motion
3 to deny the request to modify the designated floodway.

4 SECRETARY DOHERTY: I'm not sure that I'm ready
5 to -- modification of the --

6 MR. TABOR: And of course if the Board is willing
7 in the future to consider more information, it's probably
8 appropriate just not to make any kind of decision at this
9 time and to suggest to the property owner that if they
10 want to pursue this, that they come back with more
11 information. But obviously it's the Board's choice
12 whether they want to actively deny the request or just to
13 say that you're not going to take action on it.

14 PRESIDENT CARTER: Mr. Tabor has a valid point.

15 SECRETARY DOHERTY: Yes, I think so.

16 PRESIDENT CARTER: The action item before us is
17 not whether or not they build. It's whether or not we
18 move the -- or we change the map of the designated
19 floodway.

20 SECRETARY DOHERTY: Right.

21 PRESIDENT CARTER: So do you -- would you like --

22 SECRETARY DOHERTY: So then I can amend the
23 motion --

24 PRESIDENT CARTER: Yes.

25 SECRETARY DOHERTY: -- just to say that that's

1 what we would like to do if new information bears out that
2 it would be wise to do so.

3 PRESIDENT CARTER: So your motion then is to deny
4 the request to modify the right bank boundary of the
5 Mokelumne River Designated Floodway --

6 SECRETARY DOHERTY: That's correct.

7 PRESIDENT CARTER: -- in this location?

8 Do you still support that, Butch?

9 VICE-PRESIDENT HODGKINS: I do.

10 PRESIDENT CARTER: Okay. So we have a motion and
11 a second.

12 Any further discussion?

13 Teri, did you have something?

14 BOARD MEMBER RIE: Yes. I just got a copy of the
15 staff report Wednesday evening, and I didn't have a chance
16 to read it. I'm just wondering if the applicant was able
17 to review the staff's recommendation and report sooner
18 than Wednesday evening? It just seems that had everybody
19 had a little bit more time to prepare for this particular
20 item, the outcome could be quite different.

21 MR. PETERSON: Again, we got one of those. But
22 it was within the last few days that we got the staff
23 report, yes.

24 BOARD MEMBER RIE: I would like to ask legal
25 counsel then, considering the applicant did not get seven

1 days notice, can we even vote on this?

2 MR. TABOR: The Board's agenda was certainly
3 properly noticed within the ten-day rule required by the
4 Bagley-Keene Act. The fact that either the Board or the
5 applicant wasn't aware of the staff's recommendation is
6 really immaterial as to whether or not there was
7 sufficient public notice for the Board to consider this
8 item. Obviously in the best situations, people get in
9 plenty of time. But with the crunch of everything going
10 on, sometimes it always doesn't work out that way. But I
11 don't think it interferes with your ability to take action
12 one way or the other.

13 BOARD MEMBER RIE: Our regulations require that
14 we provide the applicant with seven-days notice as to the
15 status of the recommendation from this Board. That's a
16 different matter than Bagley-Keene.

17 MR. TABOR: Well, in that the case, then the
18 Board should not be taking any action if you want to
19 interpret it that way.

20 BOARD MEMBER RIE: Do you want to comment, Steve?

21 CHIEF ENGINEER BRADLEY: The regulations did
22 require us to notify the applicant seven days before. We
23 could have pulled it from the agenda, or they can ask for
24 it not to be heard now, I presume. I don't know the --
25 this is a legal question. I don't know how to answer

1 that.

2 BOARD MEMBER RIE: I would just be hesitant to --

3 CHIEF ENGINEER BRADLEY: I mean you're not
4 breaking any laws. They always have the option to come
5 back at any time. I expect they will consider whether
6 they want to proceed with their application to build
7 within the floodway or whether they want to do more
8 studies or whether they want to request reconsideration on
9 your decision today. They have those options.

10 BOARD MEMBER RIE: I would just be hesitant to
11 make any kind of decision at this point considering we
12 didn't give the applicant the proper notice.

13 STAFF COUNSEL FINCH: I mean that is the Board's
14 discretion, if the Board feels uncomfortable with
15 proceeding. I mean the applicant can ask that it be
16 removed. Or if the Board's not comfortable, you can
17 choose not to vote on it today.

18 PRESIDENT CARTER: What we could do is continue
19 it to next meeting, that we still -- we do have a motion
20 and a second on the table at this point. But if we
21 continue it, we don't have to take action right now. And
22 that may appear to be the most appropriate course at this
23 point.

24 SECRETARY DOHERTY: Yeah, that's fine.

25 VICE-PRESIDENT HODGKINS: I'll withdraw the

1 second.

2 SECRETARY DOHERTY: Then so it dies.

3 VICE-PRESIDENT HODGKINS: And then consider a
4 motion to continue.

5 PRESIDENT CARTER: Okay. Do you wish to address
6 the Board?

7 MR. PETERSON: Yes, actually -- my name's Dave
8 Peterson. We would appreciate the time to come back and
9 present the additional detail that the Board wishes.

10 PRESIDENT CARTER: All right. So we'll go ahead
11 and continue this item to a future meeting, which will be
12 properly noticed. And hopefully you'll have all --
13 everybody will have all their information in time to make
14 an informed decision.

15 BOARD MEMBER RIE: Okay.

16 PRESIDENT CARTER: Thank you.

17 At this time we're going to visit Item 8, which
18 is our consent calendar.

19 There is acceptance of a 2.93 acre parcel of land
20 in the City of Stockton, Charlotte's Oaks Investors.

21 Mr. Fong.

22 MR. FONG: Good morning, President Carter and
23 members of the board, Chairman Punia. Jeff Fong with the
24 Department of Water Resources, Real Estate Branch.

25 I'm here to answer any questions you wish. But

1 this is a consent item.

2 PRESIDENT CARTER: Are there any questions for
3 Mr. Fong?

4 SECRETARY DOHERTY: Yeah, I had a question. What
5 do they want in exchange? Do they want us to build a
6 levee?

7 MR. FONG: There is an existing levee there with
8 a bike trail/pedestrian path. And they're not asking for
9 any compensation. It's a donation.

10 PRESIDENT CARTER: Okay. So we will --

11 SECRETARY DOHERTY: There's no problems with this
12 little piece of land? I mean like --

13 (Laughter.)

14 MR. FONG: The Board currently --

15 SECRETARY DOHERTY: Nothing, hidden chemicals or
16 anything?

17 (Laughter.)

18 MR. FONG: There is a -- we have a delivered site
19 assessment that's been performed on this property.
20 Although I have not received a written copy of it, the
21 final report states that there's nothing to be concerned
22 about on this property.

23 PRESIDENT CARTER: We'll entertain a motion on
24 this item.

25 VICE-PRESIDENT HODGKINS: I'll move approval of

1 the item.

2 BOARD MEMBER RIE: Second.

3 PRESIDENT CARTER: We have a motion and a second.

4 All those in favor indicate by saying aye.

5 (Ayes.)

6 PRESIDENT CARTER: And opposed?

7 Motion carries.

8 Thank you.

9 SECRETARY DOHERTY: That was an easy one.

10 VICE-PRESIDENT HODGKINS: Mr. Fong?

11 MR. FONG: Yes, sir.

12 VICE-PRESIDENT HODGKINS: In the future for your

13 consideration, two paragraphs in the way of the staff

14 report. If that would explain that a little bit more

15 about the project, if there's -- it would have been

16 helpful for the Board. Okay?

17 MR. FONG: Okay. Thank you.

18 PRESIDENT CARTER: Very good.

19 Now we're on to Item 11, Federal Approval of

20 Modification and Alteration of Corps of Engineers

21 projects. This is the 408 Committee.

22 VICE-PRESIDENT HODGKINS: Thank you, Mr.

23 President.

24 The item on the agenda here is seeking agreement

25 or authorization from the Board to pursue with the Corps

1 the -- what the 408 Committee would recommend would be
2 potentially an ad hoc task force composed of
3 representatives of The Reclamation Board, the Department
4 of Water Resources, and appropriate people from the Corps
5 of Engineers to try to develop some written guidelines
6 that would help us to all better understand how the 408
7 process works, as well as to seek -- to discuss with the
8 Corps seeking delegation of some of the decision-making
9 authority on 408 down to either or both the Division and
10 District of the Corps.

11 Now, Scott put this on the agenda as a decision
12 item, because he thinks it's important before we go and
13 start talking to the Corps about this that it be clear
14 that the Board is generally supportive of, I'm going to
15 say, streamlining this process and pursuing delegating the
16 authority down. And, in effect, if the Board would agree
17 to approve that, then I think our recommendation from the
18 408 Task Force to carry in mind would be that we would go
19 ahead and meet with the Corps and with the Department of
20 Water Resources to sort of better flesh this out in terms
21 of how we might specifically go forward working
22 collaboratively, even though the word is overused, with
23 the Corps to, you know, improve and document this process
24 and then come back with a letter probably at the July
25 meeting for the Board to approve that would specifically

1 ask the Corps to initiate that kind of a process working
2 with us.

3 So I think the critical item from a policy
4 standpoint here that Scott was looking for to put this on
5 the agenda is before the task force begins to discuss with
6 the Corps and the Department of Water Resources the issue
7 of trying to streamline, document, and perhaps alter the
8 current delegation authority so that decisions could be
9 made by the district, we need to be sure that the Board
10 finds that a desirable thing to do. You know, I
11 personally think it is, because while this process may be
12 long enough to find for the Corps right now, it is not
13 very clear to I think our own staff. And I shouldn't be
14 speaking -- but is not clear enough to me, it is not clear
15 enough to some of the applicants. And we have the
16 challenge here in addition of now dealing with projects
17 that are in effect initiated by a local flood control
18 interest, but they have to work through The Reclamation
19 Board because it's modifying the project, and they also
20 are working with DWR because they're seeking state monies.

21 So I think the idea here is integrate this and
22 streamline it, and part of streamlining would be to
23 delegate some of the decision-making authority down to the
24 district. And I think everybody knows this, but this
25 applies where the proposed project involves modifying part

1 of a project levee where it was originally constructed by
2 the Corps/Board partnership.

3 Nancy mentioned to me that she had been
4 approached by DWR about attending a meeting to discuss
5 this very thing. I'm going to ask her to say a few words
6 about whatever she can tell us about that. And I now
7 wanted to see if Teri had anything that she'd want to add
8 to what I've said here.

9 BOARD MEMBER RIE: I concur with everything Board
10 Member Hodgkins just said. So, Nancy, if you want to add
11 anything, then I'll say a few words when you're finished.

12 STAFF COUNSEL FINCH: Okay. I just want to
13 mention that Jay and I will be attending a meeting with
14 DWR staff where we will discuss the 408 process as it is
15 and the relationship that The Rec Board and DWR has, and
16 especially in light of Prop 1E. That adds another element
17 that we want to consider. And so we would be doing that
18 and work with the subcommittee -- the 408 Committee on
19 that.

20 VICE-PRESIDENT HODGKINS: You know, given that I
21 think all we need is a voice vote -- we don't have a
22 resolution here -- but a voice vote that would approve
23 Item A and direct the 408 task force to go forward and
24 meet with the Corps and DWR with respect to developing a
25 more specific proposal for the Board's consideration.

1 BOARD MEMBER RIE: And if I could add something
2 else. A year ago, the 408 Task Force had a meeting with
3 the Corps. We had representatives from the Corps
4 Division. And we actually had someone there from
5 Headquarters and the District level. And there were
6 representatives from the various Assembly offices and
7 Congressional offices. And we had members from our public
8 at that meeting as well. And I think the overwhelming
9 response at that meeting was back in March, 2006, was the
10 community wanted to see decisions regarding improvements
11 to levees made at a local level. And they wanted these
12 projects if there was funding available to move quickly.
13 You don't have a very large window of opportunity for
14 flood control projects in California. That window is
15 usually limited between April, May, to October -- late
16 October, beginning of November. So it's a very small
17 window. And if we have funding available, and we need
18 federal approvals for those projects, we want to see those
19 done quickly and at the lowest level possible at the
20 Corps. So I think there's an overwhelming support out
21 there in the community to get the process out of
22 Washington DC and get it back to California.

23 PRESIDENT CARTER: Any other comments?

24 Staff?

25 I happened to run into an entourage that included

1 Assistant Secretary Woodley, who was visiting here in
2 California. And there were discussions about the 408
3 process. And it appeared that he was supportive of some
4 delegation of some of the decision making to the local
5 level, whether that was Division or District level. But I
6 think you're right. I think the general consensus is that
7 in certain circumstances that makes a lot of sense.

8 VICE-PRESIDENT HODGKINS: It might be appropriate
9 to ask for public testimony, if there is any. I don't
10 know if anybody would be interested, but we certainly
11 would be interested in knowing what you folks think about
12 this.

13 Mr. Winkler.

14 MR. WINKLER: Thank you. Steve Winkler with the
15 San Joaquin County Flood Control and Water Conservation
16 District and also with the San Joaquin County Public Works
17 Department.

18 President Carter and Member Rie, you pretty much
19 hit what I wanted to say, for fear that we'd get lost in
20 the -- you know, that sort of the bureaucracy of the
21 issue. And, that is, that local streamlining is
22 incredibly important to time-sensitive reaction to flood
23 efforts, flood safety, flood improvements. And where
24 there's local funding, we inevitably -- as we get in or
25 around federal projects, it just -- you're forced to a

1 near halt or a very slow progress. And when you're
2 time-sensitive on your next item you're going to hear
3 about some very time-sensitive issues of major impact up
4 and down the valley. And so I won't get into that.

5 But if we don't have the flexibility at your
6 level or at a local level to proactively try to enhance
7 flood protection and safety for the public, it's very
8 problematic. There's local funding available through
9 Propositions 1E and 142. And if all of a sudden we have
10 to go through a major federalized process that is subject
11 to Corps funding before they can even look at the
12 feasibility of something, it's a major problem. This was
13 the 408 process, which basically says you can't alter a
14 federal project without federal approval.

15 We're hearing anecdotally that even if you're
16 outside the project easement and more than ten feet from
17 the toe of the landward side of the levee, you can't do
18 anything that would affect the performance of the project.
19 And I'm okay with that. I know people digging trenches or
20 swimming pools, you know, they're deep enough to fall into
21 a projected plan. But if adding seepage drains and some
22 drainage outside of the project easement to address
23 localized concerns, having developers as part of their
24 projects that are adjacent to but outside the project
25 levee to do things that would better protect the

1 community, I'm a little concerned with the -- a
2 federalized approach is, "Well, we think that could alter
3 the performance. Perhaps enhance the performance, but
4 that's an alteration." So we've got to go through some
5 long federal process to get there.

6 And also instead of just CEQA now, we're into
7 NEPA and other processes as far as environmental
8 clearances that can take years. And I don't know how we
9 expedite flood protection locally for adding years to the
10 process.

11 The last thing would be, I would hope that as
12 part of that if you're successful in having that
13 streamlining dialogue, that your board would press for --
14 that you'll look at the original intent of what the 408
15 process was created to do and ask that that be part of the
16 record. Because the thing to look to history, 408
17 anecdotally to me, and I researched it but I found very
18 intriguing from somebody who I think is a very
19 knowledgeable source, that this came out of a vehicle that
20 ran into a levee and caused some severe damage to a levee.
21 And they said, "Well, you know, there's no law that
22 prevents people from damaging levees. So let's create
23 something."

24 And now we're extending that outside of even the
25 easements and the footprints of the levees. And maybe an

1 example that is of anecdotal concern to us is you take
2 the -- let's get away from the Corps of Engineers and go
3 to another federal agency, where we've got the Coast Guard
4 exerting scratch -- not the Coast Guard. You've got
5 the -- well, it is the Corps of Engineers, but through
6 their processes for wetlands. They're now expanding their
7 wetlands coverage to include, you know, ditches, roadside,
8 and that aren't even tributary to bodies of water of the
9 state or the United States. But they were taking a
10 responsibility for wetland jurisdiction in inserting
11 themselves in the process. And they could probably even
12 do a road project without getting federal environmental
13 clearances and through all the clearinghouses.

14 Well, thank goodness the Federal Supreme Court in
15 the proponent decision said, "Time out. That's not your
16 jurisdiction. That was not the intent of the federal law
17 and it was not the intent of the Clean Water Act. It was
18 not the intent" -- and I've just been concerned the 408
19 process is headed the same way. Where does it stop and
20 how do we continue to have some local ability to do
21 projects?

22 So I'll get off my soap box. I'm preaching to
23 the choir, because I think you're trying to help with what
24 I'm hearing. And we would be supportive of that.

25 Thank you.

1 PRESIDENT CARTER: Thank you.

2 Mr. Countryman.

3 MR. COUNTRYMAN: Joe Countryman, MBK Engineers,
4 speaking on behalf of the California Central Valley Flood
5 Control Association. And our association represents over
6 fifty -- probably more like a hundred reclamation
7 districts responsible for operation and maintenance within
8 the Central Valley.

9 And our concern is that 408 started out, gee, if
10 you set back a levee, you need to get a 408. Now it's if
11 you put in a relief well, you need to go get a 408
12 approval. Matter of fact it seems like, without
13 stretching our minds at all, every single action that
14 would come before this Board that included the
15 strengthening of a levee could be defined as having to go
16 408 to Washington DC. We think this is wrong for a couple
17 of reasons.

18 One, the Corps has changed its organization such
19 that they no longer maintain technical expertise at the
20 Washington level. So as far as technical review goes, the
21 engineering review goes, that's all at the local level
22 anyway. The only kind of review that you can get in
23 Washington these days with how they've reorganized is a
24 policy review. And we don't think that's pertinent to
25 most of these levee strengthening projects.

1 So we think the fit technically is correct at the
2 local level. That's where you're going to get the
3 technical review that I think people are anticipating.
4 Not at the Washington level.

5 So the Flood Control Association strongly
6 supports a conversation with the Corps, with DWR on what's
7 the best way to manage -- what kind of things are we going
8 the send up, what kind of things are we going to decide
9 locally, what makes the most sense? And let's put a
10 process that could be done expeditiously.

11 So we would hope that you all would approve your
12 committee meeting with the Corps.

13 PRESIDENT CARTER: Thank you.

14 PRESIDENT CARTER: Mr. Eres.

15 MR. ERES: Thank you. Tom Eres. I'm taking an
16 invitation from Commissioner Hodgkins to speak. I didn't
17 fill out a card on this point. I have a previous card in.

18 I think it's a great idea to have the idea of a
19 working group to take a look at the policy of this thing,
20 and to be able to get the groups that you've identified
21 together to see if there isn't some better way to figure
22 out how you deal with a situation where you have competing
23 interests that may well be propelled by local development
24 interests, to be perfectly blunt, that want to take and
25 proceed to do development, and in the course of doing

1 that, will end up with the intrusion into the levee
2 system. And you know my speech on system, system, system,
3 system.

4 And it seems to me that there is perhaps a
5 different perspective in Washington DC in looking at
6 systems than there might be locally within states and
7 local regions within states, where their motivations to
8 move whatever it is that they want to move may not give
9 them that kind of a broader macro look.

10 The reason for that broader macro look is
11 probably best anecdotally from Katrina. A lot of lessons
12 have been learned from Katrina. A lot of lessons have
13 been learned in California for underseepage. When you
14 take a look at modification of a levee -- and that's what
15 we're talking about here -- for their disputes as to what
16 was 408's initial purpose, it should be looked at and it
17 should be studied. But I would not suggest that it go in
18 with a bias or a predecisional notion that it
19 automatically ought to be delegated to a district
20 engineer. I really think it ought to be looked at in a --
21 almost a zero-based analysis to say, okay, without
22 constraints and biases, what would be the most effective
23 way from the standpoint of public safety, public safety,
24 public safety?

25 Add it's good to have a Washington DC check and

1 balance on this. So, again, the idea of moving with -- is
2 just a great idea and I certainly would support it.

3 PRESIDENT CARTER: Thank you.

4 Is there anyone else?

5 Okay. So we have a request for a Board policy
6 regarding desirability of delegating authority to approve
7 modification of federal works under 33 USC Section 408 to
8 below Chief of Engineers.

9 What's the Board's -- would you like to make a
10 motion?

11 VICE-PRESIDENT HODGKINS: I would.

12 I would move that the Board approve pursuing
13 that.

14 SECRETARY DOHERTY: And I would second that,
15 Butch.

16 PRESIDENT CARTER: Okay. We have a motion and a
17 second.

18 Any further discussion?

19 All those in favor indicate by saying aye.

20 (Ayes.)

21 PRESIDENT CARTER: And opposed?

22 Motion carries.

23 Good.

24 Item 11B, discuss a possible Reclamation Board
25 request.

1 VICE-PRESIDENT HODGKINS: I think for practical
2 purposes, we've done that. And there's no action required
3 on B; is that correct, Nancy?

4 STAFF COUNSEL FINCH: Yes.

5 PRESIDENT CARTER: Okay. Very good.

6 Then we're done.

7 Let's take a ten-minute recess. We'll reconvene
8 here at 2:27. And then we'll give Mr. Pineda a little
9 chance to get set up.

10 So we're in recess.

11 (Thereupon a recess was taken.)

12 PRESIDENT CARTER: Ladies and gentlemen, if we
13 can go ahead and continue.

14 We are on to Item 12, Federal Emergency
15 Management Agency Map Modernization Program and
16 Provisionally Accredited Levee Designation Agreements.

17 Mr. Pineda, good afternoon.

18 MR. PINEDA: Thank you, President Carter and
19 members of the Board. For the record, my name is Ricardo
20 Pineda. I'm with the Division of Flood Management. I'll
21 be introducing -- or I am introducing this item.

22 (Thereupon an overhead presentation was

23 Presented as follows.)

24 MR. PINEDA: We mailed to the Board, and
25 hopefully it came out on time, a package of information

1 about federal emergency management provisionally
2 accredited levees that you should have in your package.
3 And Lorraine is putting extra copies in the file folders
4 on the back table, if anybody would like copies of this
5 package that I downloaded off the FEMA websites and Corps
6 of Engineers websites.

7 I've also provided hard copies of the PowerPoint
8 presentation that we will do today. And extra some extra
9 copies are on the back table.

10 I'm merely just going to be introducing this
11 item. And I'll call Eric Simmons to the podium. Eric's
12 an engineer with FEMA. Also with us today is Judy
13 Soutiere. And she is with the Corps of Engineers
14 Sacramento District. And I seem to always forget her
15 title. But she's working very closely with the Department
16 of Water Resources and FEMA on flood risk safety issues
17 throughout the Sacramento District area, and especially on
18 these mapping efforts.

19 So why are we here today, why is PAL important to
20 The Reclamation Board. As many of you are aware -- and
21 Eric will make more clear -- FEMA's undergoing -- FEMA's
22 undertaking a \$1 billion, five-year map modernization
23 program. And is part of that, they're looking at levees
24 that are shown on the existing paper maps that are shown
25 as providing protection against the 1 percent annual

1 chance flood, which many of us call the hundred-year
2 flood. And as part of the map modernization process, FEMA
3 has promulgated guidance documents. We call them Memo 34
4 and Memo 43, that reiterate the policies that are in the
5 existing FEMA regulations, 44 CFR 6510, that relate to how
6 do you go about an analysis and how do you show levees
7 that provide protection against the 1 percent event. How
8 do you credit a levee? What's the engineering criteria?

9 So there are many Reclamation Board levees that
10 are currently shown on the paper maps that are shown on
11 existing maps that provide protection against the
12 hundred-year flood. There are also project levees within
13 the 1600 mile system in the San Joaquin Valley and in the
14 Sacramento Valley that are not accredited levees. That
15 means the hundred-year floodplain goes beyond the
16 landside -- or goes beyond the levee alignment into the
17 landside floodplain.

18 We see fewer levees on the San Joaquin system
19 that are currently accredited as providing protection
20 against the 1 percent flood. Those are mostly in the
21 downstream end of the San Joaquin system as we get close
22 to Stockton and Lathrop. On the Sacramento River system
23 there are a lot more miles of levee that are shown as
24 providing credit. So FEMA's map modernization process is
25 relooking at all those issues and they're working with the

1 maintaining agency, which is the local reclamation
2 district, levee owner -- I'm sorry -- the community -- the
3 community which wants to see the levees accredited, and
4 the levee owner which is the State of California on moving
5 through this map modernization process which involves
6 provisionally accredited levees.

7 At the end of the PowerPoint there's a bunch of
8 slides about the state's floodplain mapping program. And
9 I won't go into those since time is limited, unless you
10 have specific questions. We made previous presentations
11 to the Board on the Department's floodplain mapping, and
12 it goes right along with FEMA's mapping program, and I'm
13 happy to answer questions at the end.

14 So with that, I'll call Mr. Simmons to the
15 podium. And also if you have questions for Ms. Soutiere
16 and the Corps, she's also available.

17 MR. SIMMONS: Good afternoon. My name's Eric
18 Simmons and I'm an engineer with FEMA Region 9. And I
19 have lead responsibility for new flood hazard mapping
20 activities in northern California.

21 --o0o--

22 MR. SIMMONS: And as you may know, FEMA
23 administers the National Flood Insurance Program. And one
24 important component of that program is mapping flood
25 hazards.

1 --o0o--

2 MR. SIMMONS: FEMA has embarked on an initiative
3 called Flood Map Modernization a couple years ago where
4 we're trying to upgrade FEMA's mapping into the 21st
5 Century. That is, get the mapping digital, do it in
6 county-wide format. And with that, I'll be discussing a
7 little bit about FEMA's standards for mapping around
8 levees.

9 --o0o--

10 MR. SIMMONS: So I think FEMA's standards for
11 mapping around levees are fairly simple in that we have a
12 map that reflects the with levee conditions and mapping
13 that is behind the levee. And we have a composite of
14 those two scenarios.

15 And if the levee is certified and the data as
16 described in 44 Code of Federal Regulations Section 6510
17 is provided to FEMA, then we can accredit that levee.
18 That is, FEMA can recognize the flood protection afforded
19 by the levee system. However, if the levee is not
20 certified or if we don't have that data described in
21 Section 6510, then FEMA cannot accredit the levee system.

22 So certification is important in that FEMA can
23 only accredit a levee system that is certified.

24 --o0o--

25 MR. SIMMONS: So this graphic on screen right now

1 shows graphically what the differences between accredited
2 versus non-accredited. That is, the shaded blue area is
3 called the special flood hazard area. It's the mapped
4 area that has a 1 percent or greater chance of flooding in
5 any given year. And in that area a mandatory flood
6 insurance purchase requirement is applicable. And in
7 communities that participated in the National Flood
8 Insurance Program, they must adopt certain ordinances that
9 ensure the new development in that area is reasonably safe
10 from flood loss.

11 So the example on the left shows the populated
12 area as a shaded Zone X, a moderate flood hazard area,
13 whereas the example on the right where the levee is not
14 accredited shows it as a special flood hazard area.

15 --o0o--

16 MR. SIMMONS: So we talked a lot about
17 accreditation, certification. And what does certification
18 really mean? It means that data has been provided to FEMA
19 or a federal agency has written -- has certified that the
20 levee system provides protection against the 1 percent
21 annual chance flood and meets this criteria. And in
22 federal regulations there's seven of those criteria that
23 have to be met, discussions about embankment protection,
24 slope stability, settlement, interior drainage, freeboard,
25 enclosures, and other.

1 --o0o--

2 MR. SIMMONS: So with the map modernization
3 initiative beginning several years ago, FEMA went in and
4 ensured that mapping around levees was consistent
5 nationwide and a procedural memo was issued. This is the
6 Memo 34. It was issued before Katrina. And it provided
7 interim guidance on studies including levees. And it
8 reinforced existing regulations and responsibilities,
9 specifically that if there is a local party that wants a
10 levee system accredited on a new flood insurance rate map,
11 it's the responsibility of that party wanting
12 accreditation.

13 --o0o--

14 MR. SIMMONS: Unfortunately many of the levees
15 that are accredited on FEMA's current maps aren't
16 certified. And it's often a significant effort to gather
17 that technical data to show the certification. So, later
18 FEMA issued a subsequent procedure memo, that's Procedural
19 Memo 43, that offered a newer option in continuing
20 accreditation while that certification data was gathered.
21 And that Procedural Memo 43 established what's called a
22 provisionally accredited levee. And provisionally
23 accredited levee allows FEMA to continue with the flood
24 hazard mapping, while it encourages the levee owners to
25 determine what level of protection is afforded by a levee

1 system; and through that, a new flood insurance rate map
2 that shows a provisionally accredited levee is still
3 accredited, but it's more of a temporary period. It's a
4 24-month extension to allow the levee owner to provide
5 that certification data.

6 --o0o--

7 MR. SIMMONS: So some of the key points with this
8 memo, and provisionally accredited levees is general.
9 It's only applicable for levees that are currently
10 accredited or an effective flood insurance rate map. And
11 specifically for those accredited levees that are not
12 certified, as FEMA does not have the technical data or
13 certification that shows -- that proves that the levee
14 will provide protection from the 1 percent chance flood.
15 It's applicable to all levees that are currently
16 accredited but not certified, that of levees that are in
17 the Corps of Engineers programs or for private levees.
18 And that supporting documentation must be provided within
19 this two-year period or FEMA will update the map to
20 de-accredit that levee system.

21 And the memo specifically outlines five
22 scenarios. So I was hoping to go through those five
23 scenarios as they are draftable.

24 --o0o--

25 MR. SIMMONS: But first let me go through that

1 timeline. In the past six months, FEMA has had well over
2 60 coordination meetings with local communities in kind of
3 central California and southern California. Specifically
4 in the south Central Valley and the San Joaquin River
5 basin we have held outreach meetings explaining this
6 process, explaining flood hazard mapping. And in the last
7 two months, FEMA has issued formal letters to communities
8 offering this provisionally accredited levee option. And
9 with that offer comes a 90-day timeline where if that
10 offer is to be accepted, it must be accepted in that time
11 period.

12 FEMA's continuing with the mapping as part of map
13 modernization. If the levee is certified, we will
14 continue to recognize that and fully accredit that levee
15 system on the new map.

16 However, many of our levees that are currently
17 accredited are not certified. So if the PAL agreement is
18 submitted back to FEMA, we can provisionally accredit that
19 levee system for up to 24 months after that 90-day time
20 frame.

21 So the mapping is continuing in many of the
22 counties in California. We hope to have effective digital
23 flood insurance rate maps published for many of the
24 counties in the south Central Valley at the end of next
25 year. We expect some of those digital flood insurance

1 rate maps will credit levees, provisionally accredit
2 levees, and show levees that are not accredited. For
3 those levees that are provisionally accredited, FEMA has a
4 process through that Memo 43 to either review the
5 certification data or update that map afterwards to
6 decredit the levee system.

7 --o0o--

8 MR. SIMMONS: So these five scenarios, scenarios
9 A through E. The first Scenario A is only applicable for
10 those levees not in one of the Corps of Engineers'
11 programs. Again, all these -- this scenario is for levees
12 that are currently accredited on a flood insurance rate
13 map and FEMA has no information that would show that the
14 levee does not provide 1 percent annual chance protection,
15 but it's not certified. And so FEMA has offered and is
16 offering PAL option for Scenario A levees.

17 --o0o--

18 MR. SIMMONS: Scenario B through E are for levees
19 in the Corps of Engineers program. Scenario B is levees
20 are eligible for the provisionally accredited levee
21 option. And specifically through this mapping, FEMA has
22 coordinated with many partners and extensively with the
23 Corps of Engineers over the last year, year and a half.
24 And the Corps of Engineers has made recommendations on
25 Levees in the program whether they should be offered PAL

1 option or not. And Scenario B, based on that
2 recommendation, FEMA is extending that option.

3 So again it's levees that are -- you don't have
4 information that shows they're not protected from the 1
5 percent annual chance flood, but are not certified.

6 --o0o--

7 MR. SIMMONS: Scenarios C, D, and E are not
8 eligible for the provisionally accredited levee option.
9 Specifically for Scenario C, it's because of a deficiency,
10 most often because of a deficient -- designation.

11 --o0o--

12 MR. SIMMONS: Scenario D are levees that are
13 currently not accredited by FEMA within the Corps of
14 Engineers program. So therefore not eligible for PAL,
15 provisional accredited levee option.

16 --o0o--

17 MR. SIMMONS: Scenario E are levee systems that
18 have been determined to be inadequate in providing
19 protection from the 1 percent annual chance flood. For
20 example, for some reason FEMA may have accredited a levee
21 system when the original flood insurance rate map was
22 created in the early eighties. But that levee may never
23 have been designed to that level. Perhaps a lower level
24 of protection of 40 year.

25 So that's the five scenarios.

1 --o0o--

2 MR. SIMMONS: The memo in FEMA's process for
3 provisionally accredited levees was updated this past
4 spring. Specifically it was updated to handle scenarios
5 where a maintenance deficiency has been identified. And
6 where a maintenance deficiency has been identified, the
7 levee system is not eligible for accreditation because
8 maintenance is one of the criteria for accreditation. But
9 we will, in essence, delay finalization of the new flood
10 insurance rate map, encourage the fix, the actual
11 maintenance, so FEMA will delay the issuance of what's
12 called a letter of final determination until the one-year
13 correction period has elapsed.

14 --o0o--

15 MR. SIMMONS: So I think it's important to
16 realize from a FEMA perspective that making major map
17 changes that impact the special flood hazard area is
18 sometimes contentious and very involved. We have a
19 process that tries to avoid that. But then sometimes we
20 may have information that shows that a levee system does
21 not provide 1 percent annual chance protection even though
22 an older occurrence flood map shows that. So we will in
23 those cases go through the process to update the maps. But
24 the provisionally accredited levee option is an offer that
25 if the levee is currently accredited recognized on a

1 affected firm and there isn't that evidence to show we can
2 continue with the floodplain mapping, map modernization
3 initiative where we're creating digital flood data for
4 many uses, for the insurance side or for local land use.
5 Having a digital format offers a lot of benefits.

6 --o0o--

7 As I indicated, much of our work at FEMA's been
8 focused on outreach and meeting with local officials,
9 floodplain management officials, levee owners We've had
10 many meetings as map modernization began. And more
11 recently to provide them information on these processes,
12 on our standards, on our timelines.

13 Here's a couple URLs of current information, the
14 handouts that Ricardo mentioned. I had a few of those
15 fact sheets or other documents. And just a couple bullets
16 there on that on that ongoing outreach, we're having these
17 coordination meetings. The mapping, in production of new
18 flood maps that's ongoing by my partners at FEMA. We're
19 expecting preliminary issuance of many of the Central
20 Valley counties this year and next year. They go through
21 a very deliberate review and adoption process where
22 communities and others can provide comments to FEMA and
23 FEMA will resolve those comments before they're finalized
24 and before the maps are adopted at the local level by
25 communities that participate in the program.

1 --o0o--

2 MR. SIMMONS: That's just kind of a summary,
3 somewhat of a quick overview of the process, you know,
4 some of the meetings we're having with local officials and
5 they take two hours until they explain this in much more
6 thorough detail.

7 With that, are there any questions?

8 MR. PINEDA: And if the Board would like to ask
9 Eric questions now. And when that's complete, Ms.
10 Soutiere of the Corps of Engineers Sacramento District
11 would like to explain -- I think it's important to explain
12 the Corps's role and how the Corps is partnering with FEMA
13 and DWR and The Rec Board staff on providing valuable
14 input to this process for the Central Valley communities.

15 And as Eric mentioned, the San Joaquin Valley
16 counties are happening right now with the preliminary maps
17 coming out probably by the end of the Federal Fiscal Year
18 '07, which ends at the end of September of this year; and
19 final maps -- final and affected regulatory maps at the
20 end of Federal Fiscal Year '08. And then the process for
21 the Sacramento Valley counties preliminary maps and all
22 the meetings occur in Federal Fiscal Year '08, with final
23 maps in '09 for the Sacramento Valley counties.

24 So with that, questions for Eric. Or do you want
25 to hear Judy next and then wait for questions at the end?

1 And then Rod Mayer will follow Judy on the agreement
2 status.

3 PRESIDENT CARTER: Are there any questions for
4 Mr. Simmons?

5 VICE-PRESIDENT HODGKINS: Yeah, please.

6 On page 3 of the handout you were talking about
7 the six criteria. And I didn't see underseepage. Is that
8 part of levee stability or --

9 MR. SIMMONS: Yes.

10 VICE-PRESIDENT HODGKINS: Okay. Do you know what
11 you're using for an exit gradient?

12 MR. SIMMONS: The FEMA regulations governing our
13 mapping is -- they're not specific to having specific
14 value. We rely on, you know, professionals in that field
15 that are either Corps of Engineers who may certify a levee
16 or a Registered Professional Engineer who may submit the
17 certification.

18 VICE-PRESIDENT HODGKINS: Okay. The second one.
19 Freeboard, is it still three feet?

20 MR. SIMMONS: Yes, there's some clarification to
21 that in that -- in general that's the minimum. At the
22 upper end of the levee we ask for an additional foot of
23 freeboard. And within constrictions, such as bridges and
24 things like that -- I'm sorry -- an additional half foot,
25 an additional foot of constrictions. However, if another

1 party such as the Corps of Engineers submits certification
2 based on risk and uncertainty, that would meet FEMA's
3 mapping criteria.

4 VICE-PRESIDENT HODGKINS: Okay.

5 Third question. Suppose I wanted to see who has
6 received PALs or offers of provisionally accredited
7 levees. Is that on our website. Is there some place I
8 can go and see what 60 local agencies you've met with and
9 what the status is in dealing with them?

10 MR. SIMMONS: We do have a public outreach
11 website. And within that website there's information
12 categorized by county. And we're not rematching all
13 counties currently, but we hope to get others --

14 VICE-PRESIDENT HODGKINS: Okay. So you came on
15 website to find that?

16 MR. SIMMONS: And seeing maps and tables that
17 shows which levees are an offer to be PAL option, yes.

18 VICE-PRESIDENT HODGKINS: All right. Thank you.

19 PRESIDENT CARTER: Any other questions for Mr.
20 Simmons?

21 Okay.

22 MS. SOUTIERE: I'm Judy Soutiere. I'm with the
23 U.S. Army Corps of Engineers planning. My title right now
24 is the Flood Risk Manager for the Sacramento District.

25 I've been working with FEMA since November. As a

1 coordinating agency, we've been going out together on all
2 these public workshops to help identify for the locals
3 which levees are federal levees, which ones are in our
4 program, which ones aren't. And she makes sure that
5 everybody understands our particular role.

6 One of the things that we did as part of this is
7 that we needed to provide FEMA what federal levees really
8 do meet their criteria, and which ones would qualify for
9 PAL, which ones we've already certified. And we still
10 stand behind those certifications. And then which levees
11 we don't. And which levees on our system are designed for
12 the 1 percent chance, which ones weren't.

13 We were very fortunate that the Department of
14 Water Resources had actually funded the Corps of Engineers
15 over a year ago to work on a project called the initial
16 inventory of identifiable inadequacies. Because they were
17 starting to look at where did they want to spend their
18 money and where we might have problems. And during that
19 process we started looking at what was the level of the
20 water going through the levee systems during a 1 percent
21 event. And based -- looked at that and then looked at the
22 actual levees themselves to see if we had freeboard --
23 three feet in freeboard.

24 It wasn't a real detailed study, and we based the
25 hydrology on the comprehensive information because that

1 was newer information that we had versus what the projects
2 were actually designed for in some of the original
3 hydrology.

4 And so based on that initial screening, we found
5 out which levees actually had some freeboard. And then
6 there were some levees that had absolutely no -- didn't
7 have the three feet of freeboard, and so they would not
8 qualify for a Category B PAL status.

9 We then looked at -- after we did that initial
10 screening, if it had a -- if it didn't have the freeboard,
11 we didn't go any further looking at geotechnical issues.
12 If I did have the freeboard, we went to look and see if we
13 had geotechnical issues that were known -- just known, not
14 that we went out and did any investigations, just what was
15 currently available by a documentation from previous flood
16 fights, from the floods that occurred last year whether or
17 not there was damage that occurred. And so we put all
18 that on a GIS map by county. And it just happened that we
19 were able to try -- almost keep ahead of FEMA and their
20 maps. And so we were exchanging the information.

21 We are also in the middle of developing our
22 national levee database, where we've got a lot of
23 information about the levees and the levee center lines.
24 And we've been building the GIS database.

25 And so we've been exchanging our electronic files

1 back and forth so that they have the most accurate files
2 that we currently have.

3 And so based on that, we provided a list to FEMA
4 about all the levees that we felt would be PAL eligible of
5 the B category, which means that they met this 1 percent,
6 but we had no information about whether or not they've
7 been certified or meet the actual information for the
8 certification. We were a little lenient. When it was
9 kind of a borderline case we gave them a B status.

10 We do have many levees that were designed for the
11 40-year, 50-year event in San Joaquin that had been shown
12 on the FEMA maps as accredited.

13 And so in the second round of meetings when we
14 went out there, they were showing those maps as not --
15 those particular levees as not being eligible. And that
16 took some explaining to some folks.

17 Another big issue that has -- have had this
18 before you before is maintenance deficiencies that the
19 Corps of Engineers issued on our levees. We've provided
20 that information to FEMA.

21 Right now, how we did it is we rated them on a
22 project. We did not break it down any further from the
23 project. If the project -- if there were maintenance
24 deficiencies on pieces of the project, the entire project
25 became maintenance deficient.

1 We are waiting for those corrective action plans
2 to come in to us, which are due at the end of the month,
3 for us to take those and review them and see if there are
4 systems within the project, such as maybe the deficiencies
5 are on the right bank and the left bank is fine, if we can
6 separate the projects. But we will not do that until we
7 receive our corrective action plan, because we need to see
8 what people are doing to correct their actions.

9 We also have the spring inspections. We will
10 also be looking at what came out of those spring
11 inspections as to whether or not it may have corrected
12 some of the deficiencies.

13 So we're still working that information. But for
14 right now until all of that information -- and we can
15 justify splitting the deficiency ratings for FEMA's
16 purposes on mapping, the maps are going to go out the way
17 they are right now. If we can get it before they go out
18 with the -- they'll have that information. But because of
19 timing, things may not totally work well for everybody.
20 But we are working at it.

21 Certification. Everybody asks, "Is the Corps
22 going to certify?" Well, the Corps can't certify a
23 project. The problem is is we don't necessarily have
24 funding to do certification.

25 We are in the process -- when we're doing

1 existing projects right now, we are incorporating those
2 costs into the project itself, and we can do that. But
3 for people who wanted to go back and certify -- I'm going
4 to pick on RD 17. They want us to go back and certify
5 their levees. We would need funding. At this point in
6 time they would have to pay us to do the actual
7 certification, because we don't have the funding to do
8 that.

9 And if we do the certification, we are now
10 required to use risk and certainty. And so that adds an
11 additional layer of cost on to doing the actual
12 certification.

13 However, we do not mind if a professional
14 engineer for RD 17 goes out and certifies their levee if
15 they follow everything the way they're supposed to and
16 FEMA reviews that information and decides that they can
17 accredit the levee. We don't have a problem with that.
18 And that has happened on a couple of levees. We found
19 that out as we were out at these public outreach meetings,
20 is that there are some levees that are -- were certified
21 that we just didn't even know about that had been
22 certified. So, there is some issues with the
23 certification. We would love to be able to help. But we
24 can review information. We can provide information,
25 existing information only at this point in time, unless

1 someone provides us additional funding for the
2 certification.

3 So that's -- we're working hard with FEMA to
4 provide them the information as we get it. In the
5 future -- what we have not done in the past is we've never
6 provided every year our maintenance information on
7 deficient levees routinely. That will now become a common
8 occurrence. But it also then will depend on FEMA and
9 where they are at in their mapping program, as to what
10 impact it will have and the funding that they have.

11 So right now there are a lot of things going on
12 in the flood risk program: Levee certification, levee
13 assessment, vegetation on levees. There's a lot going on.
14 A lot of changes will be coming down. Timing is
15 everything, and they're not all lining up to make all the
16 maps nice, smooth, and easy.

17 That's all I have. I'm open for questions.

18 BOARD MEMBER RIE: Questions.

19 Last month when our Board met we had Mr. John
20 Hess here from the Corps. And you were talking about risk
21 and uncertainty for a completely different project for a
22 completely different reason. And I asked a question at
23 that time: That this was something the Corps requires?
24 Where is the Corps at? He said the Corps was still
25 evaluating the policy and more than likely it wouldn't

1 apply to existing levees, it would only apply to new
2 projects.

3 MS. SOUTIERE: That is my understanding, it will
4 apply -- we're in the middle of getting new guidance.
5 It's coming out in an engineering technical letter. It
6 combines all of our old guidance and also works on
7 clarifications where it shows some conflicting guidance.
8 That guidance document is not yet out. But we did receive
9 guidance last year that said we will be doing risk and
10 uncertainty for any new certifications.

11 BOARD MEMBER RIE: Okay. Thank you.

12 MS. SOUTIERE: Any other questions?

13 VICE-PRESIDENT HODGKINS: A couple.

14 When you went through and determined that three
15 feet of freeboard, what data did you use to do top of
16 levee elevation?

17 MS. SOUTIERE: I'm not positive. Our engineers
18 did that. I believe they looked at existing information
19 that we had on the banks of the levee.

20 One of the other things that I'd forgot to
21 mention that we did do, we went back to the original
22 designs -- the original O&M manuals that said this is what
23 the levee was designed for and this was its current
24 elevation. So we tried to get the most current
25 information we could as to the levee height at that

1 time -- or when we were going through this process over
2 the last year. And, yes, it was -- we got it from
3 different places. It all depended upon the particular
4 river, the particular section of the river. And in some
5 places we had good information, some places we didn't.
6 And it was just based on whatever we could get our hands
7 on. And a lot of that I think came from comp study.

8 VICE-PRESIDENT HODGKINS: Okay.

9 MS. SOUTIERE: With the National Levee Database,
10 whether it's actually gone out to survey, we'll have a lot
11 better data in the next couple months.

12 VICE-PRESIDENT HODGKINS: Now, new certifications
13 will be done by risk and uncertainty?

14 MS. SOUTIERE: Yes.

15 VICE-PRESIDENT HODGKINS: Does that mean if
16 somebody comes forward and asks you for a certification on
17 an existing levee, that that will be done using risk and
18 uncertainty?

19 MS. SOUTIERE: Yes.

20 VICE-PRESIDENT HODGKINS: Okay. Thank you.

21 PRESIDENT CARTER: Any other questions for Ms.
22 Soutiere?

23 Thank you very much.

24 MS. SOUTIERE: Thank you.

25 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: I

1 think I'll be backing up the presentation. My comments
2 will be brief.

3 So I think process as its been laid out to you,
4 assuming that the Corps is not identified in the -- in the
5 system with respect to lack of freeboard, geotechnical
6 deficiencies, or maintenance deficiencies, and that a
7 local agency is requesting PAL status for the levee. Then
8 FEMA's going to need two things from the State of
9 California. First, it's going to need the State of
10 California itself to concur on the PAL application. And,
11 secondly, that concurrence needs to be with respect to the
12 FEMA 100-year base flood.

13 DWR has specific Water Code authority for
14 participating with FEMA and the National Flood Insurance
15 Program, and also has the ability to review various
16 frequency events and to concur or to not concur in the
17 100-year base flood as being a safely passed by the levee
18 system in question.

19 So, the intention as to how we're going to
20 proceed from hereon is that any requests that come
21 forward, DWR would consider supporting the PAL application
22 by first carefully evaluating the hydraulic and
23 geotechnical information that's available, meeting with
24 the local agencies, considering any information that they
25 may have to present that supports the PAL application, and

1 then make a decision whether or not to support it. And
2 that decision would need to be based upon having adequate
3 information to support the claim that 100-year protection
4 actually exists. In the absence of information, DWR would
5 not be supporting PAL applications.

6 Are there any questions?

7 VICE-PRESIDENT HODGKINS: Would you be willing in
8 your monthly reports to develop a table that will just
9 list out who's requesting and whether or not you've
10 received or denied, so that we would have access to that
11 information?

12 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: I
13 think that would be very appropriate and I'd be glad to do
14 that.

15 At this point there's only been one request. I
16 don't believe it's been in writing. It's been oral and I
17 described it to you earlier today.

18 VICE-PRESIDENT HODGKINS: Thank you.

19 BOARD MEMBER RIE: I have a question for FEMA on
20 this particular issue that Rod just raised.

21 Traditionally the State of California has not
22 been involved in any remapping that is requested by a
23 local agency or a local sponsor. Typically the local
24 agency or local manager will submit the application to
25 FEMA and FEMA will review it and get back to the local

1 agency. So this is all brand new, this whole PAL process.
2 So I'm just wondering why is FEMA involving the state when
3 the state has never been involved before?

4 MR. SIMMONS: Yeah, I guess just a little
5 clarification, in that FEMA and the state have been
6 partners in the National Flood Insurance Program for a
7 while, for a long time. And the state has made numerous
8 requests for updates to flood insurance rate maps over the
9 years, submitting new engineering analyses that have been
10 used and are being used to update the flood maps. So
11 that's just a point of clarification.

12 But with the more current mapping and FEMA's
13 process for provisionally accrediting levees as I
14 discussed under Memo 43, there's this offer being made for
15 those levees that are currently accredited but not
16 certified. And so we're asking the participating
17 communities and those with responsibilities for levees to
18 sign that offer that they are not aware of any reason why
19 that levee system doesn't meet the certification criteria
20 in 44 CFR 6510. And so that's why I think we're here
21 today and why this meeting is happening.

22 BOARD MEMBER RIE: So what if you have
23 conflicting information from an engineer who has provided
24 information that shows the levee to be accredited and you
25 get conflicting information from the state?

1 MR. SIMMONS: Well, FEMA has and will continue to
2 be that so-called judge, reviewing technical data and
3 seeing what's most appropriate in terms of floodplain
4 mapping.

5 BOARD MEMBER RIE: Now, once the PAL process is
6 over, the 24-month process, and different reclamation
7 districts want to apply for full accreditation and they
8 supply the information, are you going to be expecting that
9 for every accreditation request that you would have the
10 state involved in that and review that on behalf of FEMA?

11 MR. SIMMONS: No. No, not necessarily, in that
12 FEMA has an ongoing map revision process. We continually
13 get requests to revise our maps, including requests to
14 accredit levee systems. And, you know, within the Central
15 Valley there's been big revisions this year, for example,
16 to accredit levee systems that FEMA has processed and
17 updated the flood insurance rate maps. And that did not
18 directly involve DWR or the state.

19 BOARD MEMBER RIE: So the intent here is to just
20 get the state involved with the PAL process, and then once
21 you get back to the regular accreditation process, DWR
22 would not be involved?

23 MR. SIMMONS: I could say you would not be
24 involved directly. But as the state coordinating agency
25 for the National Flood Insurance Program, there's still

1 that involvement, whether on the mapping side or on the
2 local floodplain management side. And as a continued
3 partner, we have that coordination involvement.

4 BOARD MEMBER RIE: Well, I know that most local
5 reclamation districts, most cities and counties, do not
6 submit their LOMARs and CLOMARs to the State of California
7 for any sort of review. Those go directly to FEMA, FEMA
8 processes those, and then you send it back to the local
9 officials, mayor, city council, or whatever.

10 MR. SIMMONS: That's correct.

11 BOARD MEMBER RIE: So you don't anticipate DWR
12 will be involved in that process?

13 MR. SIMMONS: In the revision process, no.

14 But with the National Flood Insurance Program
15 being not just mapping, not just insurance, but on the
16 floodplain management local venue side, you know, the
17 state participates in that and the supporting communities
18 in their floodplain management decisions and some
19 community system visits, looking at flood hazard damage
20 prevention ordinances and that sort of thing.

21 BOARD MEMBER RIE: Right. The reason I'm asking
22 you these questions is currently the state does not sign
23 any CLOMARs or LOMARs that are submitted by a local
24 community. But what I heard suggested by Mr. Mayer a few
25 minutes ago was that they would somehow be signatory to

1 the PAL requests that would go to FEMA.

2 MR. SIMMONS: Correct for levees that the state
3 has a responsibility. Not all levees. Not private
4 levees. Just the levees --

5 BOARD MEMBER RIE: I understand that. So once
6 it's over, we're not moving towards having DWR be a
7 signatory to LOMARs or CLOMARs for the federal project
8 levees, are we?

9 MR. SIMMONS: That's not my area.

10 BOARD MEMBER RIE: Okay. Thank you.

11 MR. PINEDA: President Carter, may I add to that
12 response by Mr. Simmons?

13 PRESIDENT CARTER: Of course.

14 MR. PINEDA: I think the bottom line -- and I'm
15 going to speak for DWR in my role in floodplain mapping
16 and the Floodplain Management Branch. And I'll let Mr.
17 Mayer as Division Chief add to it or say that I've stated
18 it incorrectly.

19 The Department is very interested in any change
20 to the certification or accreditation of a state/federal
21 project levee in the Central Valley, levees where The
22 Reclamation Board has provided insurance -- assurances to
23 the Corps that it will operate, maintain, repair, and
24 reconstruct. So I'm not going to contradict what Mr.
25 Simmons said, and I work with him on a regular basis. But

1 whenever there's a change to that, saying that an existing
2 project levee that wasn't certified in the past, they're
3 seeking the certification and the resultant accreditation,
4 DWR wants to review the data -- the technical data and
5 make sure that it meshes with all the analysis that we're
6 doing with the Corps of Engineers and data sets that we
7 have. And I believe we will comment to the Federal
8 Emergency Management Agency on their potential decisions.

9 So it's very -- that's why we're so heavily
10 involved with the state's proposed mapping program and
11 we're involved with the PAL process with signing or not
12 signing these PAL agreements. And if there's any future
13 LOMARS or CLOMARS related to the certification and
14 accreditation of the 1,600 miles of project levee, we will
15 be involved from the engineering and science perspective
16 to insure that those levees truly meet the criteria.

17 I don't know if Mr. Mayer wants to add to that.
18 But I wanted to make sure that was clear from the
19 Department's perspective.

20 PRESIDENT CARTER: Okay. Mr. Mayer.

21 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: That's
22 fine.

23 PRESIDENT CARTER: Very good.

24 BOARD MEMBER RIE: I have one more comment.

25 I'm concerned about DWR either accepting or

1 rejecting or somehow having the final say over these PAL
2 agreements. Most of them are going to be certified by
3 private engineers. And if you were to be the signatory to
4 these documents, and you were to make the decision that
5 you didn't think a PAL status should be granted or an area
6 that it is currently accredited, my concern would be:
7 What would be the avenue for the local community to appeal
8 that?

9 So I don't know if FEMA wants to speak on that.

10 MR. PINEDA: Well, the Department's -- the
11 Department's decision to sign or not sign is going to be
12 based upon available engineering and scientific data. As
13 you're aware, we're conducting extensive geotechnical
14 sampling and testing and analysis with 350 miles of urban
15 levee and we have a lot of information about the
16 historical performance of the project levees. So we have
17 a lot of information to base it on.

18 Also, if it's the case where a levee that there
19 hasn't been sufficient data in the past -- I'm sorry --
20 where it's been accredited but not certified, that means
21 it was essentially probably grandfathered in. From the
22 Department's perspective, we have to have enough data to
23 show that the levee's safe, especially because of the
24 potential problem for the underseepage, which is generally
25 not something you can measure without doing extensive

1 sampling.

2 So the specific question is how does an agency
3 appeal a potential Department decision to not sign a PAL
4 agreement. And my response to that would be, you know,
5 we're certainly welcome to meet with them and discuss it
6 and we are investing a lot of funds and that -- drilling
7 and analysis of the urban levees and we'll be moving ahead
8 with non-urban levees very soon. And there is a wealth of
9 knowledge -- existing knowledge or existing data sets
10 about the levees that we're willing to tap in to. And
11 that's why we funded the Corps over a year ago, to gather
12 all that up and, you know, put it in an organized fashion.

13 So as we are doing right now, we're willing to
14 meet with communities and explain our process, show them
15 our data sets, and move forward with them to collect more
16 data, and to eventually plan projects to improve the
17 integrity of their levees.

18 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Maybe
19 I'd like to add too. But actually I think that's a
20 question appropriately directed to FEMA, because it's FEMA
21 that will be making the decisions.

22 DWR will simply be making the decision as to
23 whether or not it is willing to sign the PAL application.
24 And that would be based upon having adequate geotechnical
25 and hydraulic information regarding the levee. And if

1 that information doesn't exist or if the information
2 indicates that signing the PAL is inappropriate, then DWR
3 would not sign the PAL agreement.

4 We've also talked with FEMA. We will have kind
5 of a customized PAL agreement for the State of California
6 because there are other provisions in the PAL agreement
7 that there's no way we would agree to, such as agreement
8 to provide further detailed information that will result
9 in certification over the next 24 months.

10 We will certainly be developing information as we
11 go over our levee evaluations program. But we don't
12 necessarily have an intention of packaging that up into a
13 submittal appropriate for FEMA to then accredit the levee
14 within 24 months. We believe that would be a local agency
15 responsibility.

16 Given that though, the bottom line is DWR will do
17 what it thinks is right after meeting with the local
18 agencies and considering whatever their concerns and
19 comments are. I do not believe that there's necessarily
20 any appeals process that FEMA goes through where it's set
21 up for this program. But you can certainly ask FEMA.

22 BOARD MEMBER RIE: Well, it wasn't so much if
23 FEMA had an appeals program. My concern was -- let's say,
24 DWR doesn't have the data. And because you don't have
25 data for a particular levee that a community wants to get

1 cost status for, you just say, "No, we're not going to
2 sign the PAL agreement." So what is that community's
3 opportunity to move forward with their PAL if we have now
4 inserted DWR in the process and you guys don't want to
5 sign for whatever reason or if you don't have the data.

6 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Well,
7 FEMA has required that the State of California concur on
8 the state's levees. And so FEMA has inserted -- and I
9 would argue properly so -- inserted the State of
10 California into the process. So the State of California
11 needs to make a fundamental policy decision in terms of
12 what does it expect in terms of data in order to sign the
13 PAL agreement. And that decision has been, we're going to
14 need adequate information that we feel comfortable that
15 hundred-year protection exists. In the absence of
16 information, we wouldn't sign the PAL agreement.

17 BOARD MEMBER RIE: See, normally it would be the
18 local agency who would prepare the packages, who would
19 gather the information from the engineer who's certifying
20 the work. And that local floodplain manager would
21 coordinate with FEMA. And then after the 24-month period,
22 the local floodplain manager would then come back with
23 whatever additional information. So that's been the job
24 of the local floodplain managers. And now we're inserting
25 another new public agency into the process. And you may

1 or may not want to, as you said, package the information
2 or provide more data.

3 So I'm just wondering what happens to these
4 communities that have to provide additional information or
5 you don't have the information? Are they now stalled out?
6 And where they're now currently certified, they have no
7 opportunity for a cost status and they become decertified
8 or de-accredited.

9 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: I
10 think they will become de-accredited. I think that's the
11 outcome.

12 BOARD MEMBER RIE: Just --

13 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: Those
14 are cases where the State of California is not willing to
15 sign the PAL application because there isn't adequate
16 geotechnical or hydraulic evidence to support it.

17 BOARD MEMBER RIE: But if the certifying engineer
18 provides that information, is that going to be adequate
19 for FEMA, if the state has no information?

20 DIVISION OF FLOOD MANAGEMENT CHIEF MAYER: The
21 answer we've had from FEMA is no, and both the State of
22 California as well as the local agency to both sign the
23 PAL application.

24 BOARD MEMBER RIE: Did you want to comment?

25 MR. SIMMONS: Yes, in that I think we're talking

1 about two related things: One is certification and one is
2 the provisionally accredited levee option. It's FEMA's
3 preference that these levees that are accredited actually
4 get certified. That is, all the engineering analyses to
5 substantiate that the levee provides 1 percent annual
6 chance protection is made available to FEMA.

7 However, most levees that are currently
8 accredited on a flood insurance rate map are not
9 certified. And that's why FEMA has made the PAL process
10 an option. And so that process is encouraging those
11 engineering analyses to determine what level of protection
12 the levee system actually provides and therefore determine
13 that it is certified.

14 BOARD MEMBER RIE: So let's say you have a levee
15 that's currently accredited for a hundred-year flood, but
16 it's not certified, and during this PAL application
17 process you get the certifying information that you need.
18 And then, let's say, DWR is inserted in the process and
19 they don't have any of the information that's required for
20 certification. Are you going to certify and re-accredit
21 that levee?

22 MR. SIMMONS: Yeah. If that technical data and
23 the certification is provided to FEMA, then we will -- you
24 know, we will view it. And if you agree with it, it's
25 certified. And therefore the new flood insurance rate map

1 will show that levee system is accredited.

2 BOARD MEMBER RIE: With or without DWR's
3 signature on the PAL application?

4 MR. SIMMONS: That's correct. And that's -- the
5 PAL process is for those levees that are not certified.

6 BOARD MEMBER RIE: Okay. But if you do get the
7 certifying information from a private engineer, you will
8 re-accredit that levee?

9 MR. SIMMONS: Correct.

10 BOARD MEMBER RIE: Okay.

11 PRESIDENT CARTER: We have a couple members from
12 the public who wanted to comment on this.

13 Mr. Winkler.

14 MR. WINKLER: I may need to do that, something my
15 mother taught me, to take a deep breath and count to ten
16 so as not to overreact.

17 President Carter and members of the Board. I
18 think you just heard the crux of the issue. And thank
19 you, Member Rie, for asking some of those questions,
20 because we're 20 days into a 90-day clock to avoid
21 preliminarily mapping major urban areas back into
22 floodplains under a guilty-until-proven-innocent approach.

23 Okay. Lacking formal certification of historic
24 levees. We don't have accreditation status. And as a
25 public safety individual for San Joaquin County, we're

1 very concerned about public safety. We're very concerned
2 about the fact that our community lies behind many levees,
3 project and nonproject.

4 But we have 70 days remaining to have multiple
5 reclamation districts, multiple land-use agencies and --
6 take the Rec District 17, we would need the reclamation
7 district, three cities, the county and arguably, what I'm
8 hearing from DWR's position, the State of California, all
9 sign off on the PAL agreement in the next 70 days saying
10 that within two years we will provide additional data.
11 The FEMA federal process is designed to give communities
12 an opportunity to in the face of new challenges and
13 potential short-term paper flood risks -- this is an
14 actuarial flood insurance issue. Okay. And before the
15 federal government says we're going to change the
16 actuarial standing of what your flood insurance policies
17 are worth and what the perceived risks are, we've got a
18 paper floodplain that we're proposing to go -- unless you
19 can demonstrate that the public is protected, the property
20 is protected. But we'll give you a reasonable period of
21 time to do that. Two years is not very much time to do
22 full certification, which is geotechnical underseepage
23 stability, interior drainage, and all the things that
24 would have to be done.

25 Who signs the PALs? Okay. The FEMA PAL

1 agreements -- and you've got it in your packet attached to
2 the letters from FEMA that went to The Rec Board. There
3 are two entities that must sign, the owner of the levee
4 and the land-use authority. Now, typically the owner is a
5 local agency, the reclamation -- local reclamation
6 district, perhaps a flood control agency. In the case of
7 State Project waterways, the State of California is the
8 owner. So rather than, you know, FEMA, you know,
9 involving the state, the state must be involved in project
10 levees.

11 And our concern is, from what I'm hearing,
12 comments to the effect of, you know, "Well, unless we had
13 information demonstrating that they are certifiable, we
14 wouldn't sign the PAL." DWR staff. But wait a minute.
15 That's what the two years is supposed to be for, is to
16 develop that information to show the levees that have been
17 recognized as providing hundred year aren't just erased
18 because of a decision to go back and look at historically
19 accredited levees. Now, I agree with that policy, by the
20 way. I think they should be looked at.

21 But we now have a very short time to keep much of
22 Sacramento, much of Stockton, much of Lathrop, much of
23 Manteca, much of -- parts of Lodi, possibly parts of
24 Tracy, and other communities up and down the valley, as we
25 take a new look, that are going to be, you know, presumed

1 guilty. And if we don't sign the PALs, giving us a
2 reasonable period of time to show that those levees are
3 adequate, then there's going to be devastating economic
4 impacts on those communities, because you can no longer
5 issue building permits, you can no longer approve any
6 development. And I understand -- and there's a valid
7 argument, well, why should we be building behind levees
8 and allowing development behind those? That's a different
9 discussion.

10 Okay. You shut down any building permits,
11 in-fill or otherwise, under FEMA ordinances, okay, and
12 FEMA floodplain requirements, which are locally adopted
13 through ordinances, and you just shut it down when you go
14 back with an effective map.

15 Now, I'm concerned when I hear DWR say, "Well,
16 unless you can prove up front that it needs a
17 certification, then there would be no reason for the state
18 to sign that." That totally defeats the purpose of the
19 PAL timeframe to reasonably go out and get that data
20 that's never been required before, okay, that they were
21 previously recognized and grandfathered in. And they're
22 levees that should not have been grandfathered. There are
23 levees with 20-, 30-year year protection that should never
24 have been assigned a hundred year. But there are many
25 levees that I'm sure, given the opportunity, will be fully

1 vindicated and shown to provide more than 100-year
2 protection. But if we can't even get a PAL to go there,
3 to take the time to create that data, we're going to
4 presume guilty. And that seems a little backwards in our
5 system of law. Now, usually it's presumed innocent and
6 then given an opportunity to show them guilty. But that's
7 the process that's in place.

8 I'm concerned with the comment that was made that
9 the state would have no intention to sign anything that
10 said that within two years that we would develop that
11 data.

12 Well, yeah. Absent action we're going to default
13 back into the floodplain. You could have -- you have a
14 case of RD 17. You could have -- just as a local example
15 for our county. You could have three cities that have
16 looked at it and reviewed it, a reclamation district board
17 and their engineers, who are willing to make assertions
18 based on their intimate knowledge of those levees, should
19 they be willing to do so, that they meet. And then two --
20 well, three cities and a county saying, "We've looked and
21 we are comfortable that given a period of time that we can
22 demonstrate adequacy."

23 Now, if there's new critical information that
24 comes to bear, I think we have to look at the standard of
25 care, you know. Things happen over time and we need to

1 take those into account. But in some cases, you know, the
2 whole point of FEMA's process as we understand it is
3 unless there are fatal flaws demonstrated, this is an
4 opportunity to study further and find evidence that they'd
5 like you to do or do not meet the standards in a two-year
6 period absent fatal flaws.

7 Now I'm hearing, "Forget fatal flaws. The state
8 won't sign it unless it can be proven that they're
9 adequate." We've got a total different standard.

10 And the last thing I'd like to close with -- and
11 I thank you for your time -- is we're very concerned.
12 It's going to have dramatic valley-wide impacts on
13 communities, on the economy. And that would include the
14 state. Safety is first -- public safety is first and we
15 recognize that. But a paper of insurance floodplain does
16 not change one iota the amount of protection those levees
17 provide.

18 PRESIDENT CARTER: Thank you.

19 MR. WINKLER: Well, if I could say one more
20 thing, President Carter. And, that is, who signs the PAL
21 for the state, if the State of California is the owner,
22 the official sponsor is The Reclamation Board? It's a
23 legal point that I think you should suggest your legal
24 counsel look into with DWR's legal counsel. Who actually
25 signs the PAL as owner? The deeds are in the reclamation

1 district's name through the Sacramento/San Joaquin
2 Drainage District. You are -- you, your Board are the
3 body that administers that and watches out for that. You
4 are appointed and are publicly accountable. I'm very
5 concerned that an agency that may have a different
6 post-Paterno is now going to be making decisions on behalf
7 of your levees that the district manages. I think that
8 The Rec Board ought to be considering those PALs
9 individually. And I think that's a legal issue: Who is
10 the owner? And I was a little surprised not to hear that
11 discussion today of how it was decided that DWR would be
12 signing the PALs or not. And I think that needs to come
13 before your Board.

14 Thank you.

15 PRESIDENT CARTER: Thank you.

16 Mr. Foley.

17 MR. FOLEY: Thank you, President Carter and the
18 Board.

19 I got involved in this -- the flood control and
20 the floodplain -- development of the floodplain in '04. I
21 started a nonprofit over it. And I think what needs to be
22 brought up from my experience is, what does the public
23 need from these agencies? The public needs to be
24 protected from flooding. And if that requires the public
25 agencies do everything possible to build the levees for

1 the people who are already there. And also why would the
2 public not expect public agencies from FEMA on down to
3 take every step possible that people do not move into or
4 the protection is not there yet.

5 Your board has those responsibilities. They
6 discussed land-use. And FEMA is making land-use decisions
7 for the public. Isn't that -- why would we want the
8 public -- these FEMA maps if the local agencies cannot
9 show to FEMA that the protection is there, why would not
10 the FEMA -- we got to pay back \$400 million to FEMA.
11 We're the insurer. Disaster assistance is insurance. We
12 are the insurer when floods happen. So why would we
13 not -- why is the flood -- why would the public not want
14 public agencies ensuring, number one, that wherever people
15 do not have flood protection, wherever they are now today
16 without flood protection, that every action is being taken
17 as quickly as possible to get that there, get high level
18 flood protection, get 500-year, number one. And why would
19 not the public -- we bail out a hundred billion dollars.
20 We're the insurer of the floods happening to FEMA. We
21 pay.

22 So why would the public not want to have FEMA and
23 every other agency making conditions on land-use? FEMA
24 does it already. You got to out and worry about land-use.
25 Your board came in on that. The old Board couldn't make

1 it without land-use decisions. FEMA makes land-use
2 decisions for the protection of the public. FEMA will
3 not -- you know, you said the flood -- except now you
4 cannot build without 100-year FEMA certification. That's
5 a land-use issue. But that's a very common sense. Why
6 would we not accept that and not care -- and not make sure
7 that happens.

8 This Board, as a previous speaker, you'll be
9 under tremendous pressure and you have been. I understand
10 the thing. I've been here since '04. Local agencies are
11 driven in the State of California by development interests
12 and they do not -- they just can't make those decisions.
13 And the builders are driven by making a profit. And
14 you've got to say no to certain things. That's your job.
15 A public agency's going to be saying no to some private
16 thing everyday. A policeman is going to say no to
17 something.

18 But, number one, why would not every state -- why
19 would every public agency not have anything to do with
20 flood control, not moving most -- but the most haste to
21 get the thing -- the thing built. And, number two, why
22 would we not want all public agencies not to allow further
23 development until it is built?

24 This question here about accreditation of the
25 levees, we don't get to -- what does the public --

1 I'm deeply involved in this. If they lose their
2 accreditation, that serves the public interest. I think
3 you were getting threatened that the buildings could get
4 shut down in Central Valley. Public safety comes first.

5 Thank you.

6 PRESIDENT CARTER: Thank you.

7 Anything else, ladies and gentlemen?

8 Mr. Pineda?

9 MR. PINEDA: I just wanted to clarify, President
10 Carter, that Scenario B is the fundamental scenario that
11 we're talking about, federal levees that are previously
12 shown as providing credit for protection against the 1
13 percent flood. And they have acceptable maintenance
14 ratings by the Corps of Engineers. And the key element,
15 if we read through the FEMA documentation that we
16 provided, is that all that has to be done to that levee
17 over the two-year period is to put together the
18 certification data, all the engineering analysis, and
19 regular operations and maintenance.

20 So there's no knowledge by the maintaining agency
21 or the owner of the community that anything has to be done
22 more than operations and maintenance and putting the
23 paperwork together. So that's why it's such an important
24 decision by the Department and our engineering staff to
25 say, "Do we have enough data, a review of all the existing

1 data, and is that data sufficient to say that signing on a
2 piece of paper, a legal document, that all we'll do over
3 the next two years is normal operation and maintenance and
4 putting the certification paper together?"

5 So we have really no question about the integrity
6 of the levee. And that's where the issue lies relative to
7 the difference that Mr. Winkler of San Joaquin County
8 discussed.

9 PRESIDENT CARTER: Thank you.

10 Any other questions?

11 BOARD MEMBER RIE: Just a request for legal
12 counsel.

13 The Water Code specifically states that this
14 Board may maintain actions in the name of the people of
15 the state on behalf of the San Joaquin Drainage District.
16 So we typically sign the contracts, sign the leases,
17 grants, easements, sign quitclaims. So I would think that
18 any other document that needed to be signed on behalf of
19 the San Joaquin Drainage District would be signed by this
20 Rec Board. And I think that's important, because if there
21 were to be a recommendation that a PAL agreement not be
22 signed, the public would have an opportunity to come back
23 with before this Board and ask for a hearing.

24 So I would like legal counsel to look into that
25 particular issue and get back to the Board.

1 STAFF COUNSEL FINCH: I know Scott Morgan was
2 briefed on this issue and I'm not. But Lani Arena's here
3 from DWR Legal, and she can give you some insights at this
4 time if you would like that. Or you could wait until next
5 month and have Scott brief you. Whichever you'd prefer.

6 BOARD MEMBER RIE: Yeah, I would really prefer
7 that our Board got an opinion from our counsel.

8 STAFF COUNSEL FINCH: Okay. That's fine. We'll
9 schedule it for next meeting.

10 BOARD MEMBER RIE: Okay. Thanks.

11 PRESIDENT CARTER: I guess at this point I'm a
12 little bit fuzzy on the two-year time period in terms of
13 where the intent of the provisionally accredited levee
14 agreement is. As Mr. Pineda just said, an opportunity to
15 pull documentation together to demonstrate that the levee
16 is -- the levee integrity is appropriate for FEMA
17 certification. Or if the intent is to allow time for the
18 local agency and/or the state or their partners to bring
19 the levee up to that standard. So I'm a little bit fuzzy
20 there. We don't have to answer that question now. But
21 that is a little bit -- I'm a little bit confused in that
22 regard.

23 MR. SIMMONS: I'll be happy to answer that, and
24 that the intent of the two-year PAL period is to allow
25 those to not only gather the data they have, perhaps

1 develop new data, geotechnical data, for example, and
2 submit that to FEMA for certification and full
3 accreditation.

4 The intent of the two-year period is not to allow
5 for modification, strengthening, whatever of the levee
6 system to meet a certain criteria.

7 PRESIDENT CARTER: Okay. Thank you.

8 Okay. With that, let's -- Mr. Punia did you
9 have --

10 GENERAL MANAGER PUNIA: I just want to inform the
11 Board that there was a quite a bit lengthy discussion
12 between The Rec Board counsel and DWR legal staff on this
13 subject. The reason that DWR is planning to sign these
14 agreements is that we are responsible for maintaining the
15 flood control system up to the design level; whereas FEMA
16 is asking to sign on the PAL agreement for the
17 hundred-year protection.

18 So we -- The Rec Board cannot certify that we
19 have a hundred-year protection. Because our relationship
20 with the Corps is to maintain the project at the design
21 level, which is -- that most of the location is less than
22 a hundred years.

23 So based upon our legal counsel, it was
24 determined that DWR has the appropriate relationship with
25 the FEMA. We don't have the relationship with the FEMA.

1 That DWR is the appropriate state agency to sign on the
2 PAL agreement. Difficult to discuss at length. And then
3 the conclusion. But we will be glad to ask our staff at
4 The Rec Board counsel to brief the Board again on the
5 subject.

6 PRESIDENT CARTER: Thank you.

7 Let's take a ten-minute recess. We'll be back
8 here in ten minutes.

9 (Thereupon a recess was taken.)

10 PRESIDENT CARTER: Ladies and gentlemen, if you
11 could please take your seats. See if we can wrap this
12 meeting up.

13 We are on Item 13, Board Comments and Task Leader
14 Reports.

15 Are there any Board comments or task leader
16 reports?

17 Teri has left?

18 GENERAL MANAGER PUNIA: Yes.

19 PRESIDENT CARTER: Okay. We won't be making any
20 decisions then.

21 Any comments?

22 Lady Bug, do you have any comments?

23 SECRETARY DOHERTY: No.

24 PRESIDENT CARTER: Butch, do you have any
25 comments?

1 VICE-PRESIDENT HODGKINS: No.

2 PRESIDENT CARTER: Okay. I don't have any
3 comments either.

4 The Report of the activities of the General
5 Manager.

6 GENERAL MANAGER PUNIA: Just a few informational
7 items.

8 Burt Bundy, a previous Board member and Manager
9 of the Sacramento River Conservation Area Forum has
10 retired as of June 4th. Ms. Beverly Anderson has been
11 appointed as the new manager. And a surprise party has
12 been arranged for Mr. Bundy on June 28th. If you plan to
13 join, please return the flier I passed to you. And you
14 can -- there's a contact number listed on the flier.

15 On the Sacramento Area Flood Control Project.
16 SAFCA's project for Natomas Cross Canal. As you may
17 recall, we sent a letter to the Corps for the
18 determination on modifying the Federal Flood Control
19 Project.

20 SAFCA used a 1991 document to comply with the
21 NEPA, to make sure that there's a NEPA compliance. But
22 the U.S. Army Corps of Engineers headquarters in their San
23 Francisco division has made a determination that SAFCA has
24 to prepare an environmental assessment. And then they
25 have to prepare a FONSI so they have to augment their

1 information that they cannot rely upon their 1991 NEPA
2 compliance document.

3 And they have also requested that SAFCA has to
4 provide additional documentation to make sure they're in
5 compliance with Endangered Species Act and several other
6 acts. So SAFCA, Sacramento Area Flood Control Agency,
7 will be working with the U.S. Army Corps of Engineers to
8 satisfy their headquarters' concerns before they can make
9 a determination that whether they will allow us to modify
10 the Federal Flood Control Project.

11 Those are the main highlight items I wanted to
12 share with you at this time. Other items I think have
13 been -- have been shared with you during our weekly
14 updates.

15 PRESIDENT CARTER: Thank you.

16 Any questions for Mr. Punia?

17 Okay. Very good.

18 Item 15, Future Agenda. I think there is a copy
19 in your packet of a draft for our July 20th Board meeting.

20 SECRETARY DOHERTY: I didn't get it.

21 PRESIDENT CARTER: You didn't get it?

22 SECRETARY DOHERTY: No.

23 PRESIDENT CARTER: Do we have some extra copies?

24 STAFF ASSISTANT PENDLEBURY: That was probably in
25 the package you didn't get.

1 PRESIDENT CARTER: Essentially we've got the
2 standard first page through Three Rivers report. Then
3 under applications we've got the Sutter County Proposed
4 Setback at Star Bend.

5 We've got Three Rivers Proposed Setback Segment 2
6 of the Feather River. There's some concern as to whether
7 or not they're going to be ready for the July meeting.

8 SECRETARY DOHERTY: On the Star Bend one, is
9 that -- do we have to take an action on that one?

10 GENERAL MANAGER PUNIA: These are potential
11 projects which we have to take. We may or may not be
12 ready. But the applicant is pushing that we should list
13 as potential. But staff has to evaluate whether they're
14 ready for July meeting or not.

15 SECRETARY DOHERTY: So we'd have to have the
16 information soon enough so we could read it too.

17 GENERAL MANAGER PUNIA: That's correct.

18 CHIEF ENGINEER BRADLEY: It needs to be ready by
19 now. And I have no information on Star Bend.

20 PRESIDENT CARTER: Are either of these ready now?

21 CHIEF ENGINEER BRADLEY: Star bend -- I have not
22 seen anything on Star Bend.

23 SUPERVISING ENGINEER FUA: Three Rivers. I've
24 talked to their consultant. And they're not even ready to
25 get us the 35 percent plans and specifications by the end

1 of July. So definitely Three Rivers is not ready by July.

2 PRESIDENT CARTER: Okay. So we're definitely
3 going to not hear 8B -- proposed 8B.

4 We may or may not hear Star Bend. Unlikely.

5 GENERAL MANAGER PUNIA: Yes, that's where we are.

6 PRESIDENT CARTER: Okay. We did continue the
7 Mokelumne River Designated Floodway Modification today.
8 So that should appear on the July agenda.

9 GENERAL MANAGER PUNIA: That's correct.

10 PRESIDENT CARTER: Then we have the Folsom Dam
11 Joint Federal Project, which we heard the briefing on
12 today. Hopefully that will be ready by July.

13 We have Property Management Agricultural Lease.
14 This was the one that we heard three months ago, I
15 believe.

16 SECRETARY DOHERTY: Yeah, there was a letter from
17 him in our packet.

18 PRESIDENT CARTER: Okay. So is it likely --
19 we've heard back from DWR on their --

20 GENERAL MANAGER PUNIA: Not the final word yet.
21 DWR staff met with Jeff Fong to the -- for a field visit.
22 And then Jeff is trying to coordinate a meeting with the
23 DWR managers to get their feedback before bringing it back
24 to the Board. This is also tentative. The last we
25 checked with Jeff, we hadn't had the chance to get

1 coordinated that meeting with the DWR managers.

2 PRESIDENT CARTER: Okay. And then we have the
3 status of the Corps's levee certification guidelines and
4 program. That's an informational briefing?

5 GENERAL MANAGER PUNIA: That's correct.

6 PRESIDENT CARTER: Okay. Then we have Lower San
7 Joaquin River Flood Control Project operational concerns.
8 That has been on the agenda tentatively for the last three
9 meetings. Hopefully we will have had time. Mr. Hill has
10 been very tolerant of our schedule.

11 We also discussed earlier today the regulatory
12 briefing regarding The Rec Board regs. And so we'll
13 include that -- or modifications to the regulations.

14 STAFF COUNSEL FINCH: And when you're ready, I
15 think there's one item that Teri mentioned to be put on
16 the agenda. And that's on this PAL agreement that Scott
17 would brief the Board from the counsel of The Reclamation
18 Board's perspective on who should -- just generally the
19 PAL agreements and who should be the signatory on the
20 agreements, was my understanding.

21 PRESIDENT CARTER: Okay.

22 STAFF COUNSEL FINCH: I guess it's a continuation
23 of that informational briefing.

24 GENERAL MANAGER PUNIA: That's up to the Board.
25 If the Board wants, we can put it on the agenda.

1 Otherwise Scott can brief Board Member Teri Rie on the
2 subject.

3 PRESIDENT CARTER: I think --

4 SECRETARY DOHERTY: I think maybe we all need to
5 be briefed on it.

6 PRESIDENT CARTER: Yeah, I think we'll put that
7 on the agenda.

8 Also, the Executive Committee has had some
9 discussions about the final disposition of our hydraulic
10 mitigation study and workshop that we held in March. And
11 so I think Butch and I are going to try and work with
12 staff and try and develop a recommendation for the Board
13 to consider as a policy using the data from that study.
14 So that potentially might appear on July.

15 SECRETARY DOHERTY: As an informational briefing
16 or as what?

17 PRESIDENT CARTER: Well, if we're ready for an
18 action item, that might be a requested action potentially
19 if we want to request the Board to adopt a policy on that.

20 And, finally, a policy on -- and this was a
21 challenge that we had in particular this month. We have
22 had this challenge for the last year and a half in terms
23 of getting timely information. This month several members
24 did not have time to review documentation because it
25 arrived at a very late date. So the Board's considering

1 establishing essentially a deadline for information to be
2 submitted to the Board at a minimum. And what we'd like
3 to do is try and get staff's input on when they need to
4 have the information so that they can generate their
5 reports and recommendations to the Board and then get that
6 to the Board in time.

7 The initial thoughts are that for action items,
8 the Board needs to have a complete package seven days
9 prior to the Board meeting. So when the Board packet
10 goes -- goes out to the Board and they receive it Friday
11 before the meeting, if the packages are not complete for
12 an action item, the action item would be postponed till
13 the next meeting. And that's kind of the initial thought
14 and feelings of the Board.

15 So we need to get some help in terms of drafting
16 some language.

17 There was some discussion about giving the
18 Executive Committee or the President of the Board some
19 discretion to make exceptions in cases where exceptions
20 need to be made. So that might be included in that
21 language.

22 STAFF COUNSEL FINCH: And I'd also like the Board
23 to be aware that if we do set a policy that applies to all
24 applicants or a whole class. And then those would need to
25 be turned into regulations. And if there is discretion

1 and it's a case-by-case evaluation, then we wouldn't need
2 regulations. But if we do need to draft regulations for
3 this particular thing, perhaps we can rule it in with the
4 other regulatory issues. But that is if we apply it to
5 all applicants, it needs to be in the form of a
6 regulation.

7 SECRETARY DOHERTY: But I definitely agree with
8 that. Because when you guys get the information late,
9 you're working hard at it, you were trying to get it to
10 us, and it's not your fault that it doesn't always get to
11 us. Somebody tells you that somebody's got to pass, I'm
12 sorry but I think that I've reached the point really where
13 if I can't read it ahead of time and understand it, I'm
14 not going to vote on it.

15 CHIEF ENGINEER BRADLEY: And I think that's the
16 Board's option. In my opinion, it shouldn't go on the
17 agenda if we don't have everything by the agenda meeting.
18 It should be ready at the agenda meetings. If it's not
19 ready at the agenda meeting, it shouldn't be on the
20 agenda.

21 SECRETARY DOHERTY: And that is pretty
22 standardized already, isn't it?

23 CHIEF ENGINEER BRADLEY: In general, that has
24 always been the case. There have been exceptions. Very
25 few.

1 SUPERVISING ENGINEER FUA: We do have, you know,
2 schedules on when things needed to be submitted and so
3 forth and so on. So we have dates. It's just that the
4 problem is we're not following those dates.

5 SECRETARY DOHERTY: Well, I think we're going to
6 have to.

7 SUPERVISING ENGINEER FUA: And our schedule here,
8 you know, when are you going to -- when is the Board
9 packet going to be mailed? And that's usually ten days
10 before the Board meeting. When should staff that has
11 presentation give his materials to us? We have a schedule
12 for that. So there are schedules, except that we're not
13 following them.

14 PRESIDENT CARTER: Okay.

15 VICE-PRESIDENT HODGKINS: I appreciate that. And
16 I agree that we've gotten to the point where it's kind of
17 out of control here.

18 But I want you to think about whether it's a
19 policy and does it have to get into regulations. I mean I
20 can't believe you can't have a policy. But we need to get
21 that up on the website. And we need to make applicants
22 and potential applicants and DWR people who are doing some
23 of these staff reports aware of that. And to me, that
24 takes, you know, a special effort. So I mean I think what
25 would make sense is to bring this thing forward. And as

1 the Board says what we're going to do it, then we try and
2 make sure we allow people 60 days to know that we're dead
3 serious about it, and so that they have time.

4 PRESIDENT CARTER: Okay.

5 VICE-PRESIDENT HODGKINS: But it's not the end of
6 the world. I mean all the cities and counties, if you
7 don't have it, you've got to get it on the agenda two
8 months before it comes up, and you've got to get the stuff
9 in in time to get the staff reports in. So it can be
10 done.

11 PRESIDENT CARTER: So what I would propose if
12 this is -- it would be okay, is that maybe the Executive
13 Committee, Butch and myself, Jay and any other member of
14 the staff that's appropriate, we go through, we look at
15 those dates, we look at the schedule we've got, we see if
16 that makes sense, make any changes that make sense, and
17 then attempt to institutionalize that, whether that means
18 a policy or that means regulations or whatever that means,
19 I don't know. But we'd try to institutionalize that and
20 implement it posthaste.

21 Does that make sense?

22 GENERAL MANAGER PUNIA: Yes. I think we were a
23 little bit lax because some of -- there was a lot of
24 pressure to keep these projects, from Sacramento Area
25 Flood Control Project, TRLIA, to keep it moving. So I

1 think we will, if the Board desires, we have those
2 deadlines and we will be glad to enforce those deadlines.

3 PRESIDENT CARTER: Okay.

4 SECRETARY DOHERTY: I think that's also part of
5 your talking about standardizing, what applicants have to
6 do, so that it's not different for each one. And I think
7 part of it is all of this. It's just not knowing when the
8 deadlines are. Or maybe they know but they don't care.
9 And so we've allowed it to happen. So it's --

10 GENERAL MANAGER PUNIA: Lorraine has something.

11 STAFF ASSISTANT PENDLEBURY: It's not about the
12 action items, but the DWR staff reports. That takes an
13 awful lot of work. It's always late because they've been
14 waiting for the water condition reports, which they don't
15 get until the last minute. I just asked them to give
16 us -- can they get their report ready without the water
17 condition -- without waiting for that. And they said yes.

18 So we can get you those water condition charts
19 separately.

20 SECRETARY DOHERTY: Well, can't we pick up our
21 own water conditions off of our computers?

22 CHAIRPERSON CARTER: Well, you're talking about
23 the DWR monthly report?

24 STAFF ASSISTANT PENDLEBURY: Yes.

25 CHAIRPERSON CARTER: Okay.

1 STAFF ASSISTANT PENDLEBURY: That has been late
2 every time because they don't get those charts until the
3 last minute. And they were trying to give us a complete
4 packet. But that doesn't seem to be working and you're
5 not having enough time to read their report.

6 So the solution could be that -- and they can do
7 this. They can get us the reports in enough time to get
8 it out to you if they can leave out those particular
9 charts.

10 My other question is, do we need --

11 CHAIRPERSON CARTER: Could they then just pass
12 the -- they could e-mail the water condition reports.

13 STAFF ASSISTANT PENDLEBURY: Yes.

14 CHAIRPERSON CARTER: Those are typically not
15 critical in terms of our decision making or our policy
16 making. And they could pass out hard copies when they --
17 as they would need.

18 STAFF ASSISTANT PENDLEBURY: Yes, they can do
19 that.

20 The other question is: Do you need a monthly
21 report from DWR? Because it is a lot of work.

22 CHAIRPERSON CARTER: Yes.

23 STAFF ASSISTANT PENDLEBURY: Okay. Then we can
24 handle it that way. So I think that problem is going to
25 be solved.

1 CHAIRPERSON CARTER: Okay.

2 STAFF ASSISTANT PENDLEBURY: Okay?

3 CHAIRPERSON CARTER: Great.

4 SECRETARY DOHERTY: So now, you send us a weekly
5 report in addition to the monthly report, correct?

6 GENERAL MANAGER PUNIA: The weekly report is a
7 quick synopsis of The Rec Board staff, of what highlights
8 of the weeks are.

9 PRESIDENT CARTER: Okay. So Butch and I will
10 work with Jay and other members of the staff to try and
11 institutionalize a schedule and a deadline and then we'll
12 apply that uniformly and fairly move forward.

13 SECRETARY DOHERTY: Thank you.

14 PRESIDENT CARTER: Okay. So any other issues
15 that I did not mention that need to appear on next month's
16 agenda or even future agendas that could go on the list?

17 VICE-PRESIDENT HODGKINS: 408 letter, did you
18 mention that?

19 PRESIDENT CARTER: I did not mention that.

20 VICE-PRESIDENT HODGKINS: There ought to be a 408
21 letter.

22 PRESIDENT CARTER: And that would be for the
23 Board to approve a draft letter?

24 VICE-PRESIDENT HODGKINS: Yes, correct.

25 PRESIDENT CARTER: All right. For a requested

1 action, I guess.

2 Okay. Anything else?

3 Mr. Bradley.

4 CHIEF ENGINEER BRADLEY: Yeah, I had question on
5 the Mokelumne River item. You continued it. But it's
6 really dependent upon the applicant submitting revised
7 hydrology and hydraulic studies, is that not correct? So
8 if we don't have those, do we put that on?

9 PRESIDENT CARTER: I don't know if it's --

10 CHIEF ENGINEER BRADLEY: I can believe they're
11 going to have them done in time.

12 SECRETARY DOHERTY: I can't believe it either.

13 PRESIDENT CARTER: I don't know if it's revised.
14 But it's basically supplying data to supporting their
15 position. And then we need to have the data supporting
16 ours, so we know the two sides of the argument

17 CHIEF ENGINEER BRADLEY: Well, we're not going to
18 have any data supporting ours. We had the designated
19 floodway line. They need to show that what they have is
20 good data to have that revision made. Otherwise the
21 revision shouldn't be made.

22 SECRETARY DOHERTY: Or if they had historical
23 data that proved to us that water had never crossed that
24 property, I might believe that.

25 PRESIDENT CARTER: Well, what data -- do we

1 have -- is there any data that the designated floodway was
2 based on?

3 CHIEF ENGINEER BRADLEY: You know, that's been 30
4 years. There was at one time studies in all the
5 documentation. I'm not sure whether -- how much of that
6 is recoverable.

7 PRESIDENT CARTER: So we ought to find out how
8 much is recoverable.

9 CHIEF ENGINEER BRADLEY: Well, I can ask staff.
10 But, you know, I didn't even know where it's kept myself.

11 PRESIDENT CARTER: Hopefully somebody does know.

12 VICE-PRESIDENT HODGKINS: We look at the change
13 between FEMA and our -- and the old Rec Board hundred-year
14 flood. I mean it had almost doubled. And then FEMA's
15 didn't seem to be with the operation of -- So, you know --
16 and to me the issue really is, you know, if you'd let him
17 build a house there --

18 SECRETARY DOHERTY: They want us to move the
19 line.

20 STAFF COUNSEL FINCH: But actually probably at
21 this point we should have this discussion when it comes
22 before the Board again when the applicant's here. If we
23 can just decide when we want to put it on the agenda,
24 that's probably what we should be discussing at this
25 point.

1 Should we wait for them to come back to us or do
2 you want to hear it next time?

3 CHIEF ENGINEER BRADLEY: I guess it's my --
4 you've already said you kind of want this information
5 ahead of time. If we don't get it by when we set the
6 final agenda, then we just don't put it on the agenda, I
7 believe.

8 VICE-PRESIDENT HODGKINS: I think we need to be a
9 little careful here, okay, because nobody but us has heard
10 that we're going to get tough about our rules, okay. So
11 until everybody hears we're going to get tough about our
12 rules -- I mean you can tell people that we're going to
13 get tough about them. But don't start rejecting stuff
14 before we've actually said this is what the policy is.
15 Because it will just create lot's of heartache for all of
16 us.

17 CHIEF ENGINEER BRADLEY: Well, I think this has
18 always been the way it operated until recently.

19 Well, I'm not sure we're getting tough. I think
20 we're just -- I mean we can choose to put things or not
21 put things on any agenda.

22 PRESIDENT CARTER: I guess what Butch is saying
23 is that we want it to be probably for July a little
24 lenient, in August tougher.

25 VICE-PRESIDENT HODGKINS: And I think didn't we

1 vote to continue this item? So it is on the agenda.

2 Okay. But this may not be any staff reports.

3 PRESIDENT CARTER: What we've asked on this one
4 is that we ask whoever the staff is that's the custodian
5 of the data for the designated floodway that they look for
6 this data and get it to us.

7 CHIEF ENGINEER BRADLEY: I'm not sure what the
8 data tells us.

9 PRESIDENT CARTER: And we don't wait till the
10 last minute to ask for it.

11 CHIEF ENGINEER BRADLEY: I'm not sure what the
12 data tells you. You have an adopted line out there that's
13 on a map. It's already defined and set. Legal boundary.

14 SECRETARY DOHERTY: So if it's on the agenda and
15 they don't bring us any information to refute that, then
16 we just stay with that. Though it still should be on the
17 agenda.

18 CHIEF ENGINEER BRADLEY: Okay. No, I agree with
19 that.

20 SECRETARY DOHERTY: Yeah, okay. Because we said
21 we were going to.

22 PRESIDENT CARTER: Anything else to go a future
23 agenda?

24 Okay. Then we will take all those under
25 consideration for the July agenda. And as things

1 materialize, we'll modify and finalize that.

2 If there is nothing else, we are adjourned.

3 (Thereupon the Reclamation Board open

4 session meeting adjourned at 4:23 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing Reclamation Board open session meeting was
7 reported in shorthand by me, James F. Peters, a Certified
8 Shorthand Reporter of the State of California, and
9 thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said meeting nor in any
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 5th day of July, 2007.

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22 JAMES F. PETERS, CSR, RPR

23 Certified Shorthand Reporter

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